

**FINAL**  
CITY COUNCIL  
  
CITY OF WICHITA  
KANSAS

City Council Meeting  
09:00 a.m. November 4, 2008

City Council Chambers  
455 North Main

**OPENING OF REGULAR MEETING**

- Call to Order
- Invocation
- Pledge of Allegiance
- Approve the minutes of the regular meeting on October 28, 2008 and special meeting minutes on October 30, 2008

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**AWARDS AND PROCLAMATIONS**

- Proclamations:
  - National Adoption Day
  - Alpha Kappa Alpha Sorority, Incorporated Weekend
  - Doris Kerr Larkins Day
- Awards:
  - Citizen's Academy Graduation
  - Third Annual EBE Awards of Recognition
  - Wichita Water Utilities Honor Award Department
  - Wichita Fire Department Bronze Wreath of Valor and the Life Saving Award
  - Wichita Police Department Bronze Wreath of Valor and the Life Saving Award
  - Wichita Police Department Police Shield and the Silver Wreath of Valor

**I. PUBLIC AGENDA**

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

1. Debbie J. Pendarvis-Property located at 839 West 55th Street South.
2. Tye Pameticky - Trash problem in his neighborhood.
3. John D. Kemp Sr. - Cornejo and Son Waste Transfer Station.

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**COUNCIL BUSINESS**

**II. UNFINISHED COUNCIL BUSINESS**

1. Sanitary Sewer and Water Distribution Systems in Rainbow Lakes West Addition, south of Central, east of 135<sup>th</sup> Street West. (District V)

RECOMMENDED ACTION: Close the public hearing; find and declare upon the request of the Mayor that a public emergency exists requiring the final passage of the Ordinances on the date of their introduction; and authorize the necessary signatures.

**III. NEW COUNCIL BUSINESS**

1. Cultural Arts Plan.

RECOMMENDED ACTION: Adopt the updated Cultural Arts Plan and continue the one mill dedicated funding for the arts along with the Cultural Arts Funding Committee with another review in five (5) years.

2. Public Hearing and Issuance of Industrial Revenue Bonds, RAW Investments, Inc. (District IV)

RECOMMENDED ACTION: Close the public hearing, place on first reading the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds in the amount of \$1,900,000 for RAW Investments, Inc., and authorize the necessary signatures.

3. Public Hearing and Property Tax Exemption Request, Rand Graphics, Inc. (District IV)

RECOMMENDED ACTION: Close the public hearing, and approve first reading of the Ordinance granting Rand Graphics an 85% tax exemption on the identified real property improvements for a five year term, plus an 85% tax exemption for a second five-year term, subject to City Council review.

4. Extension of IRB Tax Exemption, Rand Graphics, Inc. (District IV)

RECOMMENDED ACTION: Extend the tax exemption on Rand Graphics, Inc.'s IRB Bond-financed property for a one-year period and review further extension at the end of year 2009.

5. Request for Letter of Intent for Industrial Revenue Bonds, Pawnee Industrial, LLC. (District IV)

RECOMMENDED ACTION: Close the public hearing and approve a one-year Letter of Intent to issue Industrial Revenue Bonds to Pawnee Industrial, LLC in an amount not-to-exceed \$4,500,000, subject to Letter of Intent conditions and approve 100% tax abatement on all bond-financed real property for an initial five-year period plus an additional five years pending City Council review and approval.

6. Request for Letter of Intent for Industrial Revenue Bonds, Atlas Aerospace, LLC, dba Product Manufacturing Company. (District IV)

RECOMMENDED ACTION: Close the public hearing and approve a one-year Letter of Intent to issue Industrial Revenue Bonds to Atlas Aerospace dba Product Manufacturing Corporation in an amount not-to-exceed \$9,000,000, subject to standard Letter of Intent conditions; and approve a 100% tax abatement on all bond-financed real property for an initial five-year period plus an additional five years pending City Council review and approval.

7. Resolution Considering the Adoption of a Redevelopment Project Plan, Tax Increment Financing, KenMar Redevelopment District. (District I)

RECOMMENDED ACTION: Adopt the resolution and authorize the necessary signatures.

8. Public Hearing on Proposed Assessment for, One (1) Sewer Project, One (1) Water Project and One (1) Storm Water Project in the February 2009 Bond Sale Series 796. (Districts V and VI)

RECOMMENDED ACTION: Close the Public Hearing; approve the proposed assessments and find and declare upon the request of the Mayor that a public emergency exists requiring the final passage of the Bond and Note Ordinances on the date of their introduction.

9. Quarterly Financial Report for Quarter ending September 30, 2008.

RECOMMENDED ACTION: Receive and file the Quarterly Financial Report for the quarter ended September 30, 2008.

10. Improvement to the intersection of 17th and Hillside. (District I)

RECOMMENDED ACTION: Approve the project, place the Ordinance on first reading, and authorize the signing of State/Federal agreements as required.

11. Linwood Park. (District I)

RECOMMENDED ACTION: Approve the Bonding Resolutions; authorize initiation of the project; and authorize all necessary signatures.

12. 2008 and 2009 Park Facilities Renovation.

RECOMMENDED ACTION: Approve the Bonding Resolution; authorize initiation of the project; and authorize all necessary signatures.

13. Swimming Pool Improvements. (Districts I, II, IV, V, and VI)

RECOMMENDED ACTION: Approve the Bonding Resolution; authorize the initiation of the projects; and authorize all necessary signatures.

14. Architectural Programming Services New Central Library.

RECOMMENDED ACTION: Authorize issuance of a Request for Proposal (RFP) to select a consultant for architectural programming services for a new Central Library.

(9:30 a.m. or soon thereafter)

15. Repair or Removal of Unsafe Structures.

<u>Property Address</u>	<u>Council District</u>
a) 1226 North Lorraine	I

RECOMMENDED ACTION: Close the public hearing, adopt the resolutions declaring the buildings to be dangerous and unsafe structures, and accept the BCSA recommended actions to proceed with condemnation, allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair any structures would be contingent on the following: (1) All taxes have been paid to date, as of November 4, 2008; (2) the structures have been secured as of November 4, 2008 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of November 4, 2008, and will be so maintained during renovation.



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## **COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES**

### **PLANNING AGENDA**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

### **IV. NON-CONSENT PLANNING AGENDA**

1. CON2008-00032 – Conditional Use for a wireless communication facility on property zoned LC Limited Commercial (“LC”); generally located south of Kellogg Drive, midway between Grove Street and Hillside Avenue. (District I)

RECOMMENDED ACTION: 1) Concur with the findings of the MAPC and approve the Conditional Use (requires 3/4-majority vote to override protest), 2) Deny the Conditional Use request by making alternative findings, and override the MAPC’s recommendation (requires 2/3-majority vote to override MAPC); OR 3) Return the case to the MAPC for further consideration with a statement specifying the basis for the Council’s failure to approve or deny the application (simple majority vote required).

2. ZON2008-42/CON2008-36 – Zone change to “TF-3” Two-family Residential and Conditional Use request for four duplexes (eight dwelling units); generally located south of 9th Street North and east of St. Paul. (District VI)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the zone change and Conditional Use subject to the staff recommendations; authorize the first reading of the ordinance and publish the zone change ordinance; OR 2) Adopt the findings of the MAPC and approve the zone change and Conditional Use subject to the staff recommendations with a change in conditions to limit the site to six dwelling units; authorize the first reading of the ordinance and publish the zone change ordinance; OR 3) Return the application to the MAPC for reconsideration.

## **V. CONSENT PLANNING AGENDA**

1. \*ZON2001-00053 –Zone change from SF-5 Single-Family Residential to LI Limited Industrial with a restrictive covenant to limit uses and modify development standards. Generally located south of 45th Street North and west of Webb Road, 4211 N. Webb Road. (District II)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the zone change subject to staff recommendations; authorize the first reading of the ordinance and publish the zone change ordinance; OR 2) Return the application to the MAPC for reconsideration.

2. \*VAC2008-00026 Request to vacate a portion of a platted drainage and utility easement; generally located between US 54 and Lincoln Street and west of 143rd Street East. (District II)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

3. \*VAC2008-00027 Request to vacate a portion of a platted setback; generally located approximately ½ mile north of 47th Street South and west of K-15. The site is located in Sedgwick County and within the City of Wichita's three-mile ring subdivision jurisdiction. (BoCC District 5))

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

4. \*VAC2008-00028 Request to vacate a portion of a platted setback; generally located north of Harry Street and east of I-135. (District I)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

## **HOUSING AGENDA**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

Allan Murdock, Housing Member is also seated with the City Council.

## **VI. NON-CONSENT HOUSING AGENDA**

None

## **VII. CONSENT HOUSING AGENDA**

None

**AIRPORT AGENDA**

NOTICE: The City Council is meeting as the governing body of the Airport for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**VIII. NON-CONSENT AIRPORT AGENDA**

None

**IX. CONSENT AIRPORT AGENDA**

1. \*Midfield Road Duct Bank, Phase I, Mid-Continent Airport.

RECOMMENDED ACTION: Approve the project and capital budget.

2. \*Wichita Airport Hotel Associates, L.P. - Estoppel Letter and Memorandum of Lease.

RECOMMENDED ACTION: Approve the Estoppel Letter and Memorandum of Lease, and authorize necessary signatures.

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**COUNCIL AGENDA**

**X. COUNCIL MEMBER AGENDA**

None

**XI. COUNCIL MEMBER APPOINTMENTS**

- 1.

RECOMMENDED ACTION: Approve the Appointments

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**XII. CONSENT AGENDA**

1. Report of Board of Bids and Contracts dated November 3, 2008. (See attached)

RECOMMENDED ACTION: Receive and file report; approve Contracts;  
authorize necessary signatures.

2. Applications for Licenses:

None

3. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2008</u>	<u>(Consumption on Premises)</u>
Roselia Tello-Rubio	Lalos Express LLC*	1533 South Seneca Street
Jo Lynn Blood	Pine Bay Golf Course, Inc.*	6615 South Grove
<u>New</u>	<u>2008</u>	<u>(Consumption on Premises)</u>
Arlando Trotter	V's Restaurant, V's Inc.*	1021 Maple

\*General/Restaurant - 50% or more of gross receipts derived from sale of food.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

4. Preliminary Estimates:

None

5. Petitions for Public Improvements:

- a. Water Distribution System for an area along Hoover, between 23rd Street North and 25th Street North.  
(District V)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

6. Deeds and Easements:

None

7. Statement of Costs:

None

8. Consideration of Street Closures/Uses.

- a. East Kellogg Frontage Road between Ellson and Zelta. (District II)

RECOMMENDED ACTION: Approve street closure.

9. Agreements/Contracts:

None

10. Design Services Agreements:

- a. East Bank River Corridor Improvements, north of Douglas. (District VI)- supplemental  
b. Botanica/Sim Park Access Road and Utility Improvement. (District VI)

RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

11. Change Order:

- a. Pawnee Improvement, between 119th Street West and Maize. (District IV)

RECOMMENDED ACTION: Approve the Change Orders and authorize the necessary signatures.

12. Property Acquisition:

None

13. Minutes of Advisory Boards/Commissions

Board of Electrical Appeals, September 9, 2008  
Wichita Public Library, September 16, 2008  
Wichita Public Library Workshop Minutes, October 7, 2008  
Wichita Historic Preservation Board, September 8, 2008  
Wichita Employees' Retirement System, August 20, 2008  
Wichita Employees' Retirement System, September 24, 2008  
Joint Investment Committee, September 4, 2008  
Police & Fire Retirement System, August 27, 2008

RECOMMENDED ACTION: Receive and file.

14. Purchase Option, Rand Graphics, Inc. (District IV)

RECOMMENDED ACTION: Adopt the Resolution approving the Bill of Sale and Termination of Lease Agreement and authorize necessary signatures.

15. Payment for Settlement of Lawsuit.

RECOMMENDED ACTION: Authorize payment of \$11,500.00 as a full settlement of all possible claims arising out of the accident which is the subject of the claim and approve the necessary budget adjustments.

16. Fleet Internal Service Fund Budget Adjustment.

RECOMMENDED ACTION: Approve the budget transfers.

17. Dry Creek Channel Improvements, Lincoln to Orme. (District III)

RECOMMENDED ACTION: Approve the Resolution and authorize the necessary signatures.

18. Reallocation of West Douglas Park CIP Funding. (District IV)

RECOMMENDED ACTION: Approve the reallocation of funds; adopt the bonding resolution; authorize initiation of the project; and authorize all necessary signatures.

19. Planeview Community Library Memorandum of Agreement. (District III)

RECOMMENDED ACTION: Endorse the City's participation in the partnership for an additional year and authorize the Mayor to sign the memorandum of agreement.

20. Eminent Domain Professional Legal Services.

RECOMMENDED ACTION: Authorize the Mayor to sign the Contract for Legal Services.

21. Notice of Intent to Use Debt Financing, Tenant Facility Improvements – Mid-Continent Airport.

RECOMMENDED ACTION: Adopt the Resolution and authorize the necessary signatures.

22. Second Reading Ordinances: (First Read October 28, 2008)

- a. Second Reading Ordinances. (See attached)

RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

**City of Wichita  
City Council Meeting  
November 4, 2008**

**TO:** Mayor and City Council Member

**SUBJECT:** Sanitary Sewer and Water Distribution Systems in Rainbow Lakes West Addition (south of Central, east of 135th St. West) (District V)

**INITIATED BY:** Department of Public Works

**AGENDA:** Unfinished Business

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**Recommendations:** Place the Ordinance on First Reading.

**Background:** On October 7, 2008, the City Council held a public hearing to approve the final special assessments costs for a sanitary sewer and water distributions system to serve a portion of Rainbow Lakes West Addition. Council member Longwell requested that action on the projects be deferred to November 4, 2008, so that additional information could be provided to affected property owners.

**Analysis:** A meeting with representatives of the property owners in the assessment district was held on October 28, 2008. It is recommended that the projects be assessed as proposed at the October 7, 2008, public hearing.

**Financial Considerations:** The projects can remain in the summer 2009 bond sale and avoid additional temporary funding costs if the assessing Ordinance is placed on first reading at this meeting.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by providing sanitary sewer and water system improvements in an existing residential area.

**Legal Considerations:** State Statutes provide the City Council must adopt an Ordinance for allocation of special assessments prior to bonding a project.

**Recommendation/Actions:** It is recommended that the city council close the public hearing; find and declare upon the request of the Mayor that a public emergency exists requiring the final passage of the Ordinances on the date of their introduction and authorize the necessary signatures.

**Attachments:** Ordinances and declarations of emergency.

## REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, November 4, 2008, of an ordinance entitled:

**AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING WATER DISTRIBUTION SYSTEM NO. 448-90195, TO SERVE RAINBOW LAKES WEST ADDITION, SOUTH OF CENTRAL, EAST OF 135TH ST. WEST. (448-90195/470-991**

The general nature of such emergency is to enable the City to deliver final Statements of Assessment to the property owners included in the above described improvement district on November 7, 2008.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on this 4th day of November, 2008.

(Seal)  
ATTEST:

\_\_\_\_\_  
CARL BREWER, Mayor

\_\_\_\_\_  
KAREN SUBLETT, City Clerk



## REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, November 4, 2008, of an ordinance entitled:

**AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING LATERAL 39, MAIN 1, COWSKIN INTERCEPTOR SEWER TO SERVE RAINBOW LAKES WEST ADDITION, SOUTH OF CENTRAL, EAST OF 135TH ST. WEST (468-84168/480-868).**

The general nature of such emergency is to enable the City to deliver final Statements of Assessment to the property owners included in the above described improvement district on November 7, 2008.

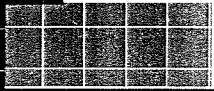
It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on this 4th day of November, 2008.

(Seal)  
ATTEST:

\_\_\_\_\_  
CARL BREWER, Mayor

\_\_\_\_\_  
KAREN SUBLETT, City Clerk



HUGO WALL SCHOOL  
of Urban & Public Affairs  
WICHITA STATE UNIVERSITY

City of Wichita  
&  
Sedgwick County

# Cultural Arts Plan 2008 Update

November 2008  
Prepared by



*Sedgwick County...  
working for you*



CITY OF  
WICHITA

Hugo Wall School of Urban and Public Affairs  
Wichita State University, 1845 Fairmount, Wichita, KS 67260-0155



City of Wichita  
&  
Sedgwick County  
Cultural Arts Plan  
2008 Update

Prepared by  
Hugo wall School of Urban and Public Affairs  
Wichita State University

Faculty Consultants  
Nancy McCarthy Snyder, Ph.D.  
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Misty R. Bruckner  
Coordinator of Community Outreach

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Michelle Stroot, Graduate Assistant  
Lisette Jacobson, Public Affairs Associate

November 2008

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# **City of Wichita and Sedgwick County**

## **Cultural Arts Plan**

### **2008 Update**

#### **Background**

Recent public events involving the financial concerns and direction of major cultural attractions in the City of Wichita and Sedgwick County illustrated the need for a comprehensive planning process and community engagement initiative to update the cultural arts plan for Wichita and Sedgwick County. Due to high profile financial and governance challenges of some cultural institutions in the past few years, in addition to continued financial and service assistance requests from other organizations, a need existed to bring stakeholders, community members and governing bodies together to address the long-term plan and priorities for cultural attractions in the community with special attention to the role of local government. In addition, the community's current cultural arts plan was last completed in 1994, and needed new strategies to address past goals and new challenges.

In the fall of 2007, the Hugo Wall School of Urban and Public Affairs (HWS) at Wichita State University was hired to conduct the principal research and facilitate the process to update the Cultural Arts Plan. The update's main purpose was to address critical issues related to the governance and finance of cultural institutions confronted by the City of Wichita and Sedgwick County. Specifically, the update sought to: 1) develop strategies for the City of Wichita and Sedgwick County related to the governance of cultural arts organizations; 2) establish priorities for the City of Wichita and Sedgwick County related to the public investment and financial needs of cultural arts organizations; and 3) serve as a guide to define local governments' role in supporting and promoting cultural arts in the community. Issues to be addressed in plan update included:

- Resource capacity building for cultural organizations;
- Organizational capacity of cultural organizations;
- Board structure and cultural arts organizations' relationship to Sedgwick County and the City of Wichita;
- Economic development impact of cultural organizations;

- Quality of life impact of cultural arts; and
- Community promotion and patronage of cultural arts

### **Cultural Arts Plan Intent and Process**

The intent of the update to the Cultural Arts Plan is to strengthen and cultivate cultural arts organizations in the community, not to punish or create obstacles for these organizations. Instead, the strategies attempt to address what local government and cultural arts organizations should do to strengthen relationships, promote disciplined financial planning, and support initiatives that promote the value and importance of cultural arts in the community. The update is not intended to negatively impact the nonprofit status of the cultural arts organizations, but instead to promote improved financial stability and governing relationships among local governments and the nonprofit cultural arts organizations. The Steering Committee developing the plan is strongly committed to the important role cultural arts organizations serve in defining the Wichita-Sedgwick County community and committee members strived to develop a update to ensure local government and cultural arts organizations worked together to create a vibrant, successful and diverse cultural arts community.

The following steps were completed to create the Cultural Arts Plan for the City of Wichita and Sedgwick County:

- Constructed a community profile of cultural arts organizations in Sedgwick County;
- Conducted research of the cultural arts organizations with strong connections to Sedgwick County and the City of Wichita;
- Created the Cultural Arts Plan Steering Committee to oversee the policy discussion, community engagement and plan creation; (*See Appendix A: Steering Committee Members*)
- Assisted the Steering Committee in identifying policy issues and strategies;
- Engaged the stakeholders in the policy discussion; and
- Created the final Cultural Arts Plan Update.

## **Original Cultural Arts Plan**

The most recent Community Cultural Plan was created in 1994 by *June Spenser and Associates*, Madison, Wisconsin. The plan centered on two main critical themes: 1) “Do not ask what can the community do for cultural arts, but rather, what can cultural arts do for the community; and 2) Frame policy and funding for cultural arts in a manner which support their inclusion in major development initiatives.” The plan established six main goals:

- 1) Create an institutional structure which supports the development of broad-based policy relating to the arts and culture, cultural planning and local cultural development;
- 2) Support the many fine cultural programs being offered in Wichita by creating systems which make the delivery of services community-wide more efficient;
- 3) Establish funding mechanisms which encourage cultural resources to become active partners in social and economic development;
- 4) Make arts and cultural services more numerous and accessible at the neighborhood level so that they have a more positive impact on social problems and increase neighborhood empowerment;
- 5) Create a strong, continuing link between arts and cultural resources and the local education system; and
- 6) Help local arts and cultural organizations help themselves by providing, training, technical assistance and information to strengthen their own capacities.

While many of the plan strategies have been implemented, much work needs to be done. The City of Wichita and Sedgwick County requested the HWS to concentrate the research and policy discussion on the governance relationship among local governments and major cultural arts institutions, the financial issues related to the organizations, and promotion of the value of cultural arts in the community. The update relates specifically to Goals 1, 2, 3 and 6 of the 1994 Community Cultural Plan.

## Policy Questions

The plan update creates an action plan with strategies that local government, Wichita Arts Council and cultural arts organizations receiving significant public support can implement. The update does not focus on community or private nonprofit boards; however, the plan centers on the sphere of influence of local government. The update provides a current assessment of the major public-nonprofit organizations with links to local government regarding governance structure and financial solvency. The plan does not intend to be a comprehensive community strategic approach to developing cultural arts. Instead, the plan's update presents realistic goals and implementation strategies that can promote stronger financial capacity and improve governing relationships among local cultural arts organizations and local government.

In addition, the plan recognizes the importance of promoting the value and impact of cultural arts in the community. Local government, the Wichita Arts Council and major cultural arts organizations should have an important role in promoting and capitalizing on the value cultural arts organizations bestow on the community. Therefore, strategies which promote the value of cultural arts were also established.

The true test of any planning document is the ability to serve as a working document. Does the plan sit on the shelf or does it actually provide guidance in setting the course of not only action, but also discussion of important issues in the future? The plan includes specific goals and strategies related to finance, governance and community value. However, there are also long-term policy questions elected leaders, local government professionals, cultural arts organization promoters, patrons and providers should confront to clarify in the future. The policy questions addressed in this document include:

- 1. If public and private funding cannot sustain current organizations at a financially sound level, should these institutions continue to receive public funding? What is the responsibility of local government if organizations are not financially sound?*
- 2. What is the goal for cultural arts organizations receiving significant public finance in regard to the financial mixture of private, public and earned income considering the earning capacity is different for each organization? If an organization does not meet the goal, what are the consequences?*
- 3. Should local government fund cultural arts organizations to a level of sustainability? Or, should local government fund cultural arts organizations at a level of excellence?*



*Is it possible to support all organizations at a level of excellence? What are the responsibilities of local government and the private sector?*

- 4. How should local government measure the impact of cultural arts organizations on quality of life? How does quality of life impact the retention of citizens and businesses in the community?*
- 5. How should local government measure the impact of cultural arts on economic development in the community?*
- 6. How does local government best support and work with private, nonprofit boards to ensure success of cultural arts organizations?*

The update to the Cultural Arts Plan is a small segment in the long-term growth and success of our community, but an important path for improving the quality of life in our area. The update creates a framework to solve challenging problems with specific recommendations and strategies. Even with this roadmap, stakeholders and policy leaders must continue to challenge themselves to ask these difficult questions and search for even more effective solutions. With that dynamic process, our community will continue to advance and thrive, making the Wichita-Sedgwick County area stronger for the future.

# Section 1. -- *Governance*

Governance is defined as the process of developing and managing consistent, cohesive policies, processes and decision rights for a given area of responsibility. The governance issues for Sedgwick County and the City of Wichita with local cultural arts organizations relate to operations and informal and formal relationships. Specifically, governance includes policy development, financial authority, human resource obligations, maintenance operations, and leadership. The governance structure is the backbone for any organization and provides the mechanics for how an organization can and will function. A strong governance structure provides for a strong organization; likewise, a weak governance structure can lead to a weak organization.

## **Local Government Structure**

In order to identify issues related to governance, the HWS had to define the relationships among local government and cultural arts organizations in the community. The first step was reviewing the internal structure for cultural arts for both the City of Wichita and Sedgwick County. Understanding how local governments are organized for managing cultural arts launched the governance research. (*See Appendix B: Governance Matrix*) A basic summary of the structure follows:

- Sedgwick County: The Division of Culture and Recreation is led by the Assistant County Manager. All cultural arts organizations with formal or informal relationships with the County report through the Division of Culture and Recreation, including the Sedgwick County Zoo and Exploration Place. In addition, the Division serves as the liaison to other cultural arts attractions in the community and oversees any financial allocations and related performance measurements with those organizations. The Division is responsible for all financial allocations, human resources, and operations associated with cultural arts organizations.
- City of Wichita: The Division of Arts and Cultural Services is the *primary* site for cultural arts organizations for the City of Wichita. The Division is part of the City Manager's Office with a direct report to the Assistant City Manager. The Division of

Arts and Cultural Services is responsible for: 1) direction and management of CityArts (a City of Wichita activity center for the arts), Mid-America All-Indian Center, Old Cowtown Museum and the Old Town Plaza facilities; 2) staff support to three advisory boards including the Design Council, Arts Council and the Art Advisory Board; and 3) liaison to museums and attractions in the community.

## **Cultural Arts Categories**

Numerous variations in the relationships with cultural arts organizations and local government exist. Four broad categories were identified:

### ***Group 1***

Nonprofit cultural arts organizations in Group 1 have more than one of the following attributes: public-owned facilities or land, public-owned collections (artifacts, exhibits, displays, etc.), public employees and/or significant public support of the organization's operating budget. The organizations are primarily aligned by funding or property ownership with either the City of Wichita and/or Sedgwick County.

#### **Wichita**

- Botanica
- Wichita Art Museum
- Mid-America All-Indian Center
- Old Cowtown Museum (City of Wichita as of fall 2007)

#### **Sedgwick County**

- Sedgwick County Zoo
- Exploration Place

#### **Both Local Governments**

- Historical Museum
- Kansas African-American Museum (Primarily Sedgwick County)

### ***Group 2***

Cultural arts organizations in Group 2 are city-owned facilities, but neither the City of Wichita nor Sedgwick County has ownership of any collection or employ any persons.

- Kansas Aviation Museum
- Museum of World Treasures
- Kansas Sports Hall of Fame
- Fire Museum

### ***Group 3***

Cultural arts organizations in Group 3 are classified under City ordinance for special lease arrangements to receive a discounted rate on performance and operational (rehearsal, storage, office, etc.) space specifically at Century II.

- Music Theatre of Wichita
- Wichita Grand Opera
- Wichita Symphony Orchestra

### ***Group 4***

All other private or nonprofit cultural arts organizations are included in this category.

### ***Arts Council:***

The Arts Council is a nonprofit organization that receives funding from both the City of Wichita and Sedgwick County. In February of 1999, the Arts Council entered into a formal agreement with the City of Wichita to serve as the designated focal point for the implementation of the cultural arts plan and primary voice for the advocacy of cultural arts in the community. The Arts Council serves all of Wichita and Sedgwick County to strengthen and promote cultural arts within the community. Both the City of Wichita and Sedgwick County have ex-officio membership representation on the Board. In addition, the Arts Council facilitated the development of the Cultural Arts Funding Committee to oversee City funding through the Cultural Arts Fund. (*See Appendix C: Arts Council*)

## **Governance Relationships with Organizations**

In the process of determining the governance relationship among local governments and cultural arts organizations, specific governance areas were explored. These areas help define the relationship between local government and the nonprofit boards and explore policy issues within each subset. Simply stated, these categories help break down the complex relationships into smaller pieces. Those topic areas include:

- *Board Relations:* Board Relations addresses the function of the board (nonprofit, local government advisory board, etc.) and whether local government is represented on the board.
- *Human Resources:* Human Resources includes the appointment of the director or CEO of the nonprofit entity, defining employees as local government or nonprofit employees, and any employee benefit issues.
- *Ownership:* Ownership addresses local governments owning the land, facilities or collections of the nonprofit organization.

- *Facility Commitments:* Facility Commitments includes maintenance operations and capital funding.
- *Financial Commitments:* Financial Commitments reviews the allocation process for each organization and the local government actual financial commitment in 2007. (An extensive analysis on finances is included in *Section 2 – Finance*.)

Several issues were identified in reviewing the governing relationships among cultural arts organizations and local governments. The Governance Matrix (*See Appendix B: Governance Matrix*) attempts to differentiate the relationships among local government and cultural arts organizations in Groups 1 and 2. The matrix clearly illuminates the inconsistencies in governing relationships with these organizations. The following information is narrative to the Matrix:

### ***Wichita Art Museum***

The Wichita Art Museum has a private board responsible for hiring and firing the director, management of the organization, and organization development. The City of Wichita has 26 employees at the Art Museum. All employees report to and are hired by the director. The City owns the facility, land and collection, and has responsibilities for maintaining the facility. The Wichita Art Museum receives funding from the City of Wichita's annual budget. Since funding has been capped at a fixed amount, the Wichita Art Museum must supplement funding for the 26 city employees from the competitive Cultural Arts grant program. In addition, facility commitments for operations and future capital improvements have created past concerns due to a lack of clarity on the responsible party.

### ***Botanica, Inc.***

Botanica, Inc. is a private, nonprofit entity. The executive director is hired by the City of Wichita with input from the nonprofit's board of trustees and reports to the City of Wichita's Park and Recreation Department. Botanica receives funding from the City's cultural arts mill levy for four city-funded employees. However, this funding has been capped at a fixed amount that no longer covers the personnel expenses (salary increases, benefits, etc.).

The City owns the facilities and the land at Botanica. The board is responsible for capital improvements, although the City does have planned funds in the CIP for Botanica's expansion. Both the City of Wichita Park Department and Public Works Department provide support to Botanica.

### ***Exploration Place***

Exploration Place is a private nonprofit entity. The County is responsible for hiring the Executive Director who reports to the County. The director oversees all other employees who are employed by the nonprofit. The County financed the building, while the City owns the land. Ownership of the building will revert to the City when the building is paid off in approximately 40 years. The board is responsible for all capital improvements. Due to the financial difficulties Exploration Place experienced, the County committed \$7 million of unrestricted funding for four years starting in 2005.

### ***Sedgwick County Zoo***

The Sedgwick County Zoo is governed by a private board, the Sedgwick County Zoological Society, Inc., but shares both employee and administrative responsibilities with Sedgwick County. All employees directly providing services to the facilities or assets are Sedgwick County employees. All other personnel are employees of the nonprofit board. The director of the Zoo is hired by Sedgwick County and oversees employees hired both by the Zoological Society and Sedgwick County.

The Board of the Zoological Society operates the assets of the Sedgwick County Zoo, but Sedgwick County owns the land, facilities and assets. The Zoological Society is responsible for raising funds for any new exhibits or capital improvements. Capital campaigns are the responsibility of the nonprofit board. In the past, Sedgwick County has agreed to finance any new employees associated with the new exhibits.

Another interesting facet in the operating agreement between the County and the board is the use of unspent County funds that are provided to cover the expense of the County employees. Any funds that the County provides must first be used to cover the cost of County employees; however, any funding not used for employee services may be used by the Board for maintenance and updates to facilities.

### ***Old Cowtown – Historic Wichita-Sedgwick County, Inc.***

Since the fall of 2007, the private board of the Old Cowtown Museum is an advisory board to the Wichita City Council, though the board remained a self-appointing board. All employees are employees of the City of Wichita and report to the Division of Arts and Cultural Services.

Wichita owns all land and facilities, while the board owns the collection. Due to financial issues, the City is now responsible for all operating costs and capital improvements, but the board is responsible for maintenance of the collection. The board gets revenues from memberships to pay the maintenance expenses; all other revenues (admission, sales, etc.) revert to the City. Sedgwick County had a stronger funding and governing relationship with Old Cowtown, but since the City took over management function, the County will no longer contribute any funding to Old Cowtown.

### ***Mid-America All-Indian Center***

The Mid-America All-Indian Center was built in 1976 as part of a federal funding program to celebrate the Bicentennial. The City of Wichita owns the land and the facility. In the past, the Center served as a Native American artifacts museum, community center for Native Americans, and provided social services to the Native American community. The City partnered with the Center to provide operations and administrative functions for the board in 2005 to address financial concerns. The board remains an 11 member private, nonprofit board that has administrative oversight and fiduciary responsibility. There are three seats appointed by the City Council.

As part of the agreement with the City of Wichita, the Mid-America All-Indian Center Board contracts for and purchases administrative services from the City of Wichita. With a combination of funding from the City, earned income, and private contributions, the Board pays the City for two staff members to operate the Center. These two staff members report to the Division of Arts and Cultural Services. The City is responsible for hiring and paying for the two staff members. For the City, the financial relationship is a neutral transaction. The funding from the City (*Dedicated funding and grant funding as explained in Section 2- Finance*) basically covers the cost of the employees. The City gives the money to the Board, the Board writes a check back to the City, and the City hires and pays for the two employees, plus benefits.

The Board is responsible for covering the cost of the employees and funding for future employees would be generated prior to purchasing additional services from the City. The Board receives responsible and stable operational services and the City oversees the funding and personnel. Unlike the relationships with other museums, the City maintains control of the finances to ensure funding for the City personnel who work at the Center. The Board has

worked diligently with the staff to create a stable financial future by downsizing operations, generating earned income, erasing past debt and building assets for the future. With the new relationship, the City has also invested capital funding into the Center and provided maintenance.

### ***Kansas African-American Museum, Inc.***

The Kansas African-American Museum is governed by a private board and has no governance relationship with either local government and has no government-funded employees. Sedgwick County does own the land at the current museum location, but the collection is property of the nonprofit board. There are plans for a new facility. The City of Wichita owns the land for the proposed site, but the privately capital campaign has been stalled. The board faces challenging financial issues and is currently searching for a director.

### ***Wichita-Sedgwick County Historical Museum***

The Wichita-Sedgwick County Historical Museum board is a private board which employs all employees and owns the collection. The City of Wichita owns the land and facilities, but capital improvements are the responsibility of the board. The City provides maintenance support to the museum. Both Sedgwick County and the City of Wichita provide funding for employees and programming at the Wichita-Sedgwick County Historical Museum.

## **Issue Identification**

The research information was used to define policy concerns for each of the broad categories. In addition to the independent research, two roundtable discussion sessions were conducted with executive directors from cultural arts organizations (Group 1 and 2) in November 2007, and the second in February 2008. The directors identified the following items of importance regarding governance and financial relationships with local government:

- The long-term planning through the operating agreements has made possible the financial stability for the Sedgwick County Zoo and Exploration Place.
- Funding should address the actual expenses of the organization. Base funding from the City has been capped since 1999, which has resulted in Group 1 being encouraged to apply for supplemental funding through the competitive Cultural Arts grants program to cover shortages for operating expenses.



- Local government must make existing investments a priority in funding.
- A basic question must be answered, “Do we want cultural arts organizations to strive for excellence or existence?”

The following analysis identifies issues of concern in the governance structure. Issues are identified in each category as defined previously.

### ***Board Relations***

Exploration Place and the Sedgwick County Zoo are the primary cultural arts organizations funded by Sedgwick County. While the County does provide funding to other organizations, the funding commitment is significantly greater with these two organizations. Since the Sedgwick County Zoo’s inception, a well-defined operating agreement has existed between the nonprofit Sedgwick County Zoological Society Board and the Sedgwick County Board of County Commissioners.

The operating agreement is the principal factor in the successful relationship between the nonprofit board and the County. The operating agreement defines the representation of the County on the nonprofit board, human resource relationships, allocation process and dedicated funding, and other critical factors of the relationship. In 2005, the County significantly increased financial support to Exploration Place and developed a similar relational model using an operating agreement with the nonprofit board of Exploration Place.

The County has three seats on the Board of Directors for the Zoo and Exploration Place. Those three seats are held by a member of the Sedgwick County Board of County Commissioners, the County Manager, and an appointee of the County Manager, currently the Assistant County Manager leading the Division of Recreation and Culture. The three County members have full status and voting rights on the Board. The County’s representation on these boards greatly improves communication and ensures that both the nonprofit board and County work together on an on-going basis for the betterment of both organizations.

The County does not have operating agreements with the nonprofit boards of the Wichita-Sedgwick County Historical Museum or the Kansas African-American Museum. However, the County does have representation on the Kansas African-American Museum with the County Manager (or designee) and a County Commissioner.

In contrast, the City of Wichita does not have operating agreements with any nonprofit boards of cultural arts organizations, with the exception of an outdated 1989 agreement with Botanica created at inception. The City's representation on the nonprofit Boards varies with each entity:

- Wichita Art Museum - one seat (city manager) --an ex-officio, voting member;
- Botanica – The 1989 agreement calls for four seats representing the City of Wichita including: Mayor, City Manager, Park Department Director, and Park Board – no positions with voting rights;
- Cowtown – no or appointments;
- Mid-America All-Indian Center – three seats appointed by the City Council with voting rights; and
- Wichita-Sedgwick County Historical Museum – no seats or appointments.

#### *Policy Considerations*

The lack of representation on the Boards and operating agreements has led to a breakdown of communication in the past resulting in both the City and County being surprised with financial difficulties of the organizations, such as with Exploration Place, Cowtown and the Mid-American All-Indian Center. Therefore, the operating agreements and board representation are two critical issues that must be addressed for future development of all organizations.

#### *Human Resources*

Since inception, the County has been responsible for hiring the director of the Zoo with board approval. With the additional County financial commitment in 2005, the County established a similar agreement with the board of Exploration Place. Zoo employees responsible for the day-to-day care and operations of the animals and facilities are County employees who report directly to the director. All other employees at Exploration Place are employees of the nonprofit, but still report to the director, who is a Sedgwick County employee. The County does not have any employees or hiring authority at the Wichita-Sedgwick County Historic Museum or the Kansas African-American Museum.

The City has various forms of the staffing responsibilities and reporting relationships with Group 1 organizations. For example:

- The Wichita Art Museum and Wichita-Sedgwick County Historical Museum directors are hired by the private boards of the organizations and report to their boards. There are 26 city employees at the Wichita Art Museum who are hired by the director but funded by the City. The Wichita Art Museum Director has an informal reporting relationship to the City Manager's Office, mostly through the Division of Arts and Cultural Services.
- The directors for Botanica, and recently the Mid-America All-Indian Center and Old Cowtown, are hired by the City and are City employees. The nonprofit Botanica board participates in the hiring process.
- The director at Botanica reports to the Park Department, although the nonprofit board participates in the annual evaluation process. There are three additional city employees who report to the director. The balance of employees, funded by the nonprofit board, also report to the director.
- The directors at the Mid-America All-Indian Center and Cowtown report to the Cultural Arts Division of the City Manager's Office. All employees are City employees.
- The City does not have any employees or hiring authority at the Wichita-Sedgwick County Historic Museum or the Kansas African-American Museum.

### *Policy Considerations*

The dual role many of the executive directors have in reporting both to the nonprofit board of directors and to the local government authority has potential for significant conflict. If the board of directors and the local government were in conflict, one must ask the question, to whom does the director have loyalty? Should the director follow the will of the board that has the legal authority to operate the nonprofit, or the local government entity that employs the director? The potential for conflict certainly illuminates the importance of operating agreements to ensure both sides understand roles and responsibilities. The operating agreements have proven productive for the Sedgwick County Board of County Commissioners and the nonprofit board of the Sedgwick County Zoological Society for the past 37 years.

Another significant policy concern for the City of Wichita is the conflict of having both city employees and Board employees within the same institution. Sedgwick County Zoo has been able to address this potential conflict through the nonprofit's capacity to raise enough supplemental funds to offer a wage and benefits package to its employees that is comparable to what Sedgwick County offers the employees it funds.

However, Botanica has not been able to afford such an arrangement. The City needs to address this inequity to ensure the investment in human resources at Botanica is protected. In concurrence, at the roundtable discussions, the executive directors expressed considerable concern with benefits, especially health insurance, as a major financial concern for all nonprofit organizations. Developing a strategy to ease this financial burden would benefit to both the nonprofit organizations and local government.

### ***Ownership***

The ownership and public investment in the land, facilities and collections are perhaps the most significant determining factor on the amount of local government support for the cultural arts organizations. The more the local government has at stake, the more it will be involved financially, including an oversight commitment.

For example, Sedgwick County has the largest public investment with the Sedgwick County Zoo, where it owns the land, facility and collection (the animals). Similarly, the County financed the \$20 million debt to build Exploration Place. Due to this investment, the County has required an active participation in the operations of the organization by having seats on the Board and hiring the director. Where the County has less financial investment, such as the Kansas African American Museum and the Wichita-Sedgwick County Historical Museum, the County has less oversight and control.

The issue of public investment has driven decisions by the City of Wichita in recent years. The impetus for the City of Wichita to convince the boards of directors at the Mid-America All-Indian Center and Old Cowtown to allow the City to have operational and management control was motivated through the significant public investment the City has already made in these organizations by owning the land and facility, as well as the City's commitment and belief in the value these cultural arts institutions have in our community.

### ***Policy Considerations***

Protecting the public investment in these cultural arts organizations makes sense both financially and from the quality of life and community development perspective. However, with the recent financial difficulties of many of the cultural arts organizations, local government has been called upon to intervene with financial infusion (i.e. Exploration Place) and/or take over operations (i.e. Mid-America All-Indian Center and Cowtown). With numerous other competing

public services, local government continues to struggle to define its role and financial capacity to support these institutions, while at the same time balancing the significance of the past public investment and impact to quality of life and economic development in the community. Once more, it is critical to define expectations and consequences in the operating agreements.

### *Facility Commitments*

Maintenance operations and capital funding are also important in protecting the public investment at these cultural arts institutions. Sedgwick County elects to leave the custodial care of the buildings and future capital funding to the nonprofit boards of directors and management staff at the organizations. The City of Wichita has various relationships with the cultural arts organizations in Group 1 and 2. For example, at Botanica, the nonprofit entity is primarily responsible for funding maintenance of the grounds and facility, but also receives support from the departments of Park and Recreation and Public Works. At the other City facilities, the City of Wichita provides maintenance through the City of Wichita Public Works Department and Park Department, but some maintenance is done by the organization.

The City has different protocols for funding capital improvements for Group 1 organizations. Capital improvement plans and responsibilities are not clearly defined within the agreements with Botanica or the Wichita Art Museum. Past precedents have been a mixture ranging from joint ventures, to being completely private or completely publicly-funded. The City has not previously provided capital funding to Old Cowtown or the Mid-America All-Indian Center. There are future capital improvement projects (CIP) funds now dedicated for projects at these sites. CIP funds are also allocated for infrastructure improvements at Botanica in upcoming years, contingent upon the nonprofits' ability to privately raise a matching sum. No CIP funds are planned for the Wichita-Sedgwick County Historical Museum.

Sedgwick County does not pay for capital improvement projects for the Sedgwick County Zoo or Exploration Place. These organizations are required to privately fund capital improvement projects. For the Sedgwick County Zoo, the Sedgwick County Board of County Commissioners has in the past consistently increased funding to support the employees associated with any new capital improvement projects.

### *Policy Considerations*

Through discussion with the directors and as identified by the Steering Committee, there appears to be confusion, conflict, or the potential for conflict, due to the lack of clarity of roles and responsibilities with Group 1 organizations and the City of Wichita. Clearly defining these roles and responsibilities is important.

Another issue is that the City of Wichita does not consistently report the financial commitment for operations maintenance to these organizations in the annual budget. With Botanica, Cowtown, the Wichita-Sedgwick County Historical Museum, Mid-America All-Indian Center, and the Wichita Art Museum, the maintenance budget is part of the Public Works or Park Departments' general maintenance budget. However, with the new arrangement with Cowtown maintenance funding is considered part of the Cowtown budget. Therefore, it is difficult to define, compare and understand the commitment both financially and in-kind service to these organizations. Consistent reporting will provide better communication and comprehension to all parties involved.

### *Financial Commitments*

Review of the financial commitments considered the allocation process for each Group 1 organization and the local government actual financial commitment in 2007. More information on the actual finances of the organizations can be found in *Section 2 – Finance*. However, it is important to understand how the actual allocation is made and the level of commitment local government has made to each of the Group 1 organizations.

Through the annual general fund budgeting process, Sedgwick County allocates funds to be given to each cultural arts organization. Although State Law requires that the County can only make a one-year commitment, the County does use the operating agreements with Exploration Place and the Sedgwick County Zoo to consider the anticipated financial commitments for a five-year period. Funding is then allocated on a year-by-year basis. The County requires that County employees at Exploration Place and the Zoo must be paid first with funds provided by the County. Any additional funds beyond those needed for payroll at Exploration Place may be used for programming or operations; surplus County funds not needed to cover personnel expenses at the Zoo may, at the end of the year, may be used for facility maintenance or improvements.

The County contributes fewer funds to the Kansas African American Museum and Wichita-Sedgwick County Historical Museum. The County's funding for these organizations is used at the discretion of the Boards with appropriate annual goals and operating budgets provided to the County for oversight.

The City's funding process and restrictions vary among organizations; some funding is directed or restricted to personnel use, and other organizations have unrestricted funding. The Wichita Art Museum and Botanica must first meet the financial obligation of the City personnel expenses with the City funds. Due to the capped funding policy of the City (See Section 2 – Finance for more information), these funds no longer cover all personnel expenses and other funding sources must be found to pay for City employees.

The City funds do not have the same constraints as the other organizations. With the Mid-America All-Indian Center, the City's transferred funds are combined with other generated funds to "buy back" or purchase operating services from the City. The more funding the Indian Center generates, the more money the board can elect to use to purchase management services from the City.

Some financial arrangements with the City of Wichita and Cowtown are still being finalized. However, the Division of Arts and Cultural Services will control the funding for the daily operations of Cowtown. The Board is only advisory, but continues oversight on the management and maintenance of the collection it owns.

### *Policy Considerations*

A major concern for organizations with City employees is how to cover the increasing expenses associated with these employees which are beyond the organization's control (cost of living increases, benefit increases, etc.), without any revenue increase from the City to match these expenses. Developing strategies to minimize this financial burden is in the best interest of the City to protect the public investments and the quality of life of the community. Developing avenues and strategies to work together is critical to the future of these organizations. The myriad of financial arrangements the City has with Group 1 organizations can lead to confusion and public misunderstandings. Finding ways to simplify or clarify the funding process and to develop consistent practices are important for the future of the organizations and the role of local government.

## **Governance Plan of Action**

As stated previously, the intent of the plan is to develop a structure that assists organization to run more effectively, not to assume control. The plan aims to improve relationships among individual cultural arts organizations and local government. The issues exposed in the research led to the following goal and recommendations:

***Goal #1 –Governance: Define roles and relationships between local government and cultural arts organizations to support community cultural arts***

### **Recommendations**

***A. Local governments will enter into management operating agreements with local cultural arts organizations (Group 1, 2 and 3), which receive significant financial public investments. (March 2009)***

\*Note: These operating agreements will identify roles and responsibilities of the organizations and the local government. Sedgwick County has been using agreements for several decades with the Sedgwick County Zoo and recently Exploration Place and finds this to be an important tool in promoting successful organizations. The City of Wichita will adopt a similar practice.

### ***Implementation Strategies:***

1. Establish discussions with appropriate cultural arts organizations regarding the purpose and intent of the operating agreements;
2. Create an internal local government team to work with representatives from each cultural arts organization in developing the operating agreements;
3. Define timeframe and process to develop the operating agreements; and
4. Ensure governing officials approval.

***Anticipated Outcomes:*** Operating agreements between cultural arts organizations and local governments will:

- 1) Ensure appropriate financial support for the cultural arts organizations;
- 2) Provide clear roles of responsibility; and
- 3) Support long-term vitality and success of the organizations.

***Responsible Party:*** City-funded entities - City of Wichita Cultural Arts Division, City Manager's Office; County-funded entities - County Manager's Office

***B. Reorganize the city's administrative structure to create a more focused system linking together, under a single department, decisions concerning cultural organization's funding; public art; planning; and city-owned facilities including but not limited to the Wichita Art Museum, Botanica, Century II and the Historical Museum. (January 2009)***



***Implementation Strategies:***

1. Establish a team to implement this administrative change to address resource allocation, reporting structure, in-kind services and other related issues regarding the consolidation process.
2. Ensure representation on the team to include: City of Wichita Division of Arts and Cultural Services, City Manager's Office, Finance Department, Park Department, and other appropriate stakeholders.

***Anticipated Outcome:*** Streamlining the reporting structure will reduce duplication, provide a centralized point of contact, and ensure consistency of roles and responsibilities.

***Responsible Party:*** City Manager's Office

- C. The City of Wichita will develop alternative optional compensation benefit packages for Group 1 organizations to allow for consistent benefit options for both city employees and employees of the nonprofit organizations. (January 2011)***

***Implementation Strategies:***

1. Establish a team to investigate alternatives for employee benefit packages to be available for all Group 1 city organizations. The team shall be comprised of the following representatives: City of Wichita Division of Arts and Cultural Services, City Manager's Office, Finance Department, Park Department, and Group 1 cultural arts organizations, Art Councils, Sedgwick County and other appropriate stakeholders.
2. Explore optional alternatives to improve the employee compensation packages, including an option to purchase services from local government, developing a shared benefits package, or other alternatives.

***Anticipated Outcome:*** Consistent employee compensation packages to ensure equity, improve benefits, and retain valuable human resources.

***Responsible Party:*** City Manager's Office and Cultural Arts Division

- D. Elected officials (or their designee) and staff of local governments will participate on the boards of directors of Group 1 organizations. (March 2009)***

***Implementation Strategies:***

1. Convene representatives of elected officials, city and county management, Group 1 cultural organizations, Arts Council and other stakeholders to determine appropriate representation and role of elected officials and local government staff.
2. Determine representatives from elected officials and staff for each Group 1 cultural arts organization.

***Anticipated Outcome:*** Establishes representation by local government elected officials and staff to enhance communication, strengthen relationships, and promote and support successful cultural arts organizations.

***Responsible Party:*** County-funded entities - Sedgwick County Board of County Commissioners; City-funded entities - City of Wichita City Council, County Manager's Office and City Manager's Office, Arts Council

***E. Local government will strengthen the role of the Arts Council in planning, promoting and advocating for art in all aspects of the community. (January 2010)***

***Implementation Strategies:***

1. Develop a list of priority public policy areas such as economic development, downtown initiatives, or neighborhood outreach, upon which cultural arts will have a significant impact.
2. Establish an on-going discussion forum with Arts Council and local government representatives to address the policy priorities.
3. Create a formal reporting process, structure and timeframe for reporting to the City Council and County Commission by the Arts Council on its activities and Cultural Plan implementation updates.

***Anticipated Outcome:*** Cultural arts will be an integral aspect of public policy decisions.

***Responsible Party:*** Arts Council, County Manager's Office, City Manager's Office, and City of Wichita Cultural Arts Division

## Section 2. -- *Finance*

The financial stability and growth potential for cultural arts organizations is one of the most critical factors for the long-term success of cultural arts in our community. Organizations that are not sustainable, or reach a crisis condition, have been a recent concern for local governments. Financial research and review regarding revenues and expenditures of the eight Group 1 organizations was conducted to determine the financial solvency of these major cultural arts organizations. Those organizations are:

- Wichita Art Museum
- Botanica
- Exploration Place
- Sedgwick County Zoo
- Cowtown
- Kansas African American Museum
- Wichita-Sedgwick County Historical Museum
- Mid-America All-Indian Center

The research was conducted to paint a current picture of the financial solvency, public and private funding dependency, and financial trends of each organization. A synthesized matrix provides a general overview. (*See Appendix D: Finance Matrix*) A complete financial analysis is also included for each of the eight organizations. The financial analysis includes:

- A trend analysis of revenues and expenses over the last five to six years based on the IRS form 990;
- Ratio analysis based on the most recent audited financial statement;
- Surplus or deficit spending review;
- Total revenues including private contributions, government contributions, and earned income;
- Total expenses including expenses for program services, administration, and fundraising;
- A comparison of total revenues in 2000 (or 2001) versus 2005;
- A comparison of total expenses in 2000 (or 2001) versus 2005;

### **Revenues and Expenses**

Information for the analysis was derived from the last available audited financial statements ranging from 2004-2006. (*Note: Significant governance and financial changes for Cowtown would NOT be reflected in this research. In addition, Exploration Place and the Mid-America*

*All-Indian Center were in a time of transition during these years with changing relationships with Sedgwick County and the City of Wichita respectively.)*

The revenue sources were broken into four main categories:

- Government Contributions: Funding derived from any level of government in the form of direct aid, grant, or in-kind contributions. Government funding is listed as public support in the financial statements.
- Private Contributions: Funding derived from gifts, donations or other aid where funding was not provided for an exchange of service.
- Earned Income: Funding derived from memberships, admissions, concessions, property rental, gift shop, and other categories where funding was provided in exchange for services.
- Other Income: Funding derived from investment income, sale of assets, or items listed as miscellaneous.

One of the challenges in using the financial forms are institutions may categorize or list information differently. For example, while some organizations listed building usage as an in-kind expense, others did not. However, the audited financial statements represent the best source for a macro review. The analysis is not intended to delve into the financial transaction of each institution, but instead provide an overall financial perspective of the eight Group 1 organizations.

The expenses for these eight institutions were not analyzed. Information is available as part of the audited financial forms. The total expenses were only used to determine the net income of the organization to further examine the financial stability of the organization.

#### Source of Revenues

The research delved into the revenues for each organization to derive the balance among government contributions, earned income and private contributions. The Sedgwick County Board of County Commissioners funds cultural arts organizations from the general fund budget as part of the Division of Culture and Recreation. Funding for these organizations has generally remained level or increased annually. *(See Appendix E: Public Funding)*

Through the years, the City of Wichita has committed funds to cultural arts organizations (Wichita Art Museum, Botanica, Wichita-Sedgwick County Historical Museum, Kansas African-American Museum, Old Cowtown,) Arts Council and Mid-America All-Indian Center from the general fund budget. The Wichita City Council in 1999 froze, or capped, the funding amount for these organizations and reduced the capped amount slightly in 2001. That has resulted in a shortfall since 1999, of almost 30% in operations money for these arts organizations.

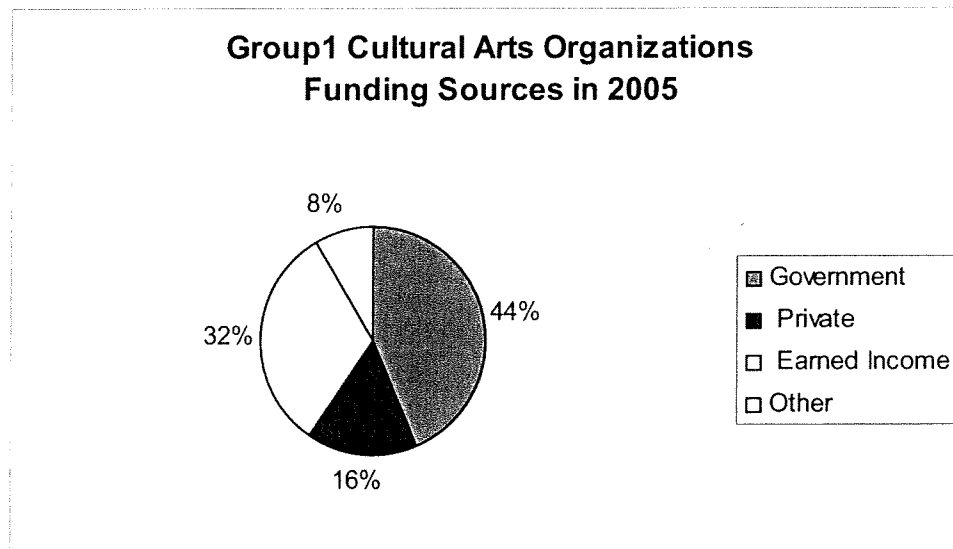
In 2004, the Arts Council proposed, and the Wichita City Council voted to support, an annual commitment of funds to cultural arts which amounted to the equivalent of one mill. Any additional funds from the one mill not used toward the capped amount of funds organizations received would be used in a competitive grant process. The competitive grant process, overseen by the Cultural Funding Committee (CFC), reviews applications and makes recommendations to the City Council for allocation of the funding. Arts organizations which receive a base amount of funding from the City can also apply for supplemental funding through the grant process. The CFC funding process is open to all 501c3 nonprofit cultural arts organization. *(See Appendix F: City Funding Base and Supplemental.)*

Conclusions from the 2004-2006 financial report analysis include:

- Total revenue (city and county, earned income and private contributions) for all eight organizations amounted to \$17,984,144 during this time period. Expenses totaled \$20, 629,631.
- City of Wichita and Sedgwick County combined contributed \$7.8 million. Government contributions comprise 44 percent of the total revenue for the eight organizations.
- Local government contributed greater than 40 percent or more of the total revenue to 7 of the 8 museums: Kansas African-American Museum (59 percent), Wichita Art Museum (44 percent), Exploration Place (40 percent), Old Cowtown (57 percent), Wichita-Sedgwick County Historical Museum (46 percent), Mid-America All-Indian Center (59 percent) and the Sedgwick County Zoo (44 percent).
- In contrast, government contributions comprised only 19 percent of Botanica revenue sources.

- Earned income represented 32 percent of all the revenues for all organizations combined.
- Earned income was an important resource for Botanica (40 percent of total revenue), the Sedgwick County Zoo (40 percent), and Exploration Place (56 percent).
- Earned income was about one-quarter of the revenue totals for both Mid-America All-Indian Center (25 percent) and Cowtown (23 percent). However, earned income made up less than 10 percent of the revenues for the Wichita-Sedgwick County Historical Museum (5 percent), the Wichita Art Museum (7 percent) and the Kansas African-American Museum (8 percent.)
- Private contributions made up 16 percent of total revenue for all organizations combined. However, it is important to note that capital campaigns were not included in most of the audited statements and private giving is often directed at capital campaign activities.

### **Chart 1. Funding Sources for Cultural Arts Organizations**



- Botanica was the only organization where private contributions made up more than one-third of the revenues (35 percent). The Wichita Art Museum (30 percent) and the Kansas African-American Museum (27 percent) were close to the one-third level.

- Private contributions represented a smaller portion of revenue sources for these organizations: Exploration Place's (2 percent), Sedgwick County Zoo (12 percent), Cowtown (18 percent), Wichita-Sedgwick County Historic Museum (6 percent), and the Mid-American Indian Center (14 percent).
- The amount of funding from revenue from investment, sale of assets or miscellaneous sources was relatively low overall at 8 percent. The Art Museum had 19 percent of revenues from this category due largely to investment income. The Wichita-Sedgwick County Historical Museum had 43 percent of revenues from this category from sale of assets. All other organizations were below 7 percent.

### Liquidity and Solvency Ratios

Recent audited financial statements were used to examine the short-term and long-term financial stability of the eight organizations. Various financial ratios were calculated to determine how organizations were situated to handle short-term and longer-term financial obligations. The attached chart provides an overview of the organizations. (*See Appendix G: Financial Ratios*) Once more, it is important to stress the analysis is a global perspective, not intended to provide detailed review or explanation of each organization. The following definitions will assist in the review of the information:

- *Current Ratio*-- Current Ratio measures an organization's ability to generate and manage cash in the short-term to address possible immediate financial needs. Current ratio refers to an organization's short-term financial position and answer the question, "*Does an organization generate adequate cash to meet its current operating costs?*" A figure of 2.0 is used as an appropriate level indicating that current assets should be roughly twice as large as current liabilities, i.e., the organization would be able to cover expenses twice over. Current ratio is calculated by dividing current assets by current liabilities.
- *Working Capital* -- Positive working capital means that the company is able to pay off its short-term liabilities. Negative working capital means that a company currently is unable to meet its short-term liabilities with its current assets.

Working capital is calculated by taking the organization's current assets less its current liabilities.

- *Days of Cash on Hand* -- Days of Cash on Hand indicates how many days an organization could meet its daily operating expenses using the cash on hand. An appropriate level would be to have at least 90 days of cash to cover operating expenses. Days of Cash on Hand is calculated by taking cash and cash equivalent divided by operating expenses less bad debt and depreciation divided by 365.
- *Operating Ratios* -- Operating ratios refer to an organization's long-term financial position and answer the question, "*Does an organization generate sufficient revenue over time to meet its long-term obligations?*"
- *Operating Margin* -- The Operating Margin measures how much of each dollar in revenue received becomes surplus. Operating margins should meet or exceed the rate of inflation to allow the organization to keep pace or exceed expenses for the following year. If an organization's operating margin is only one percent, meaning its net income is only one percent of its total revenues, but inflation is at three percent, the organization will not be able to keep pace with future expenses. Operating margins are calculated by dividing net income by total revenue.
- *Return on Net Assets*: Return on net assets is another operational ratio and provides at least a rudimentary indication of whether an organization is earning a sufficiently large enough surplus of revenues over expenses to maintain itself in its current state. The return on net assets should also meet or exceed the rate of inflation. Return on net assets is calculated by net income divided by beginning net assets.

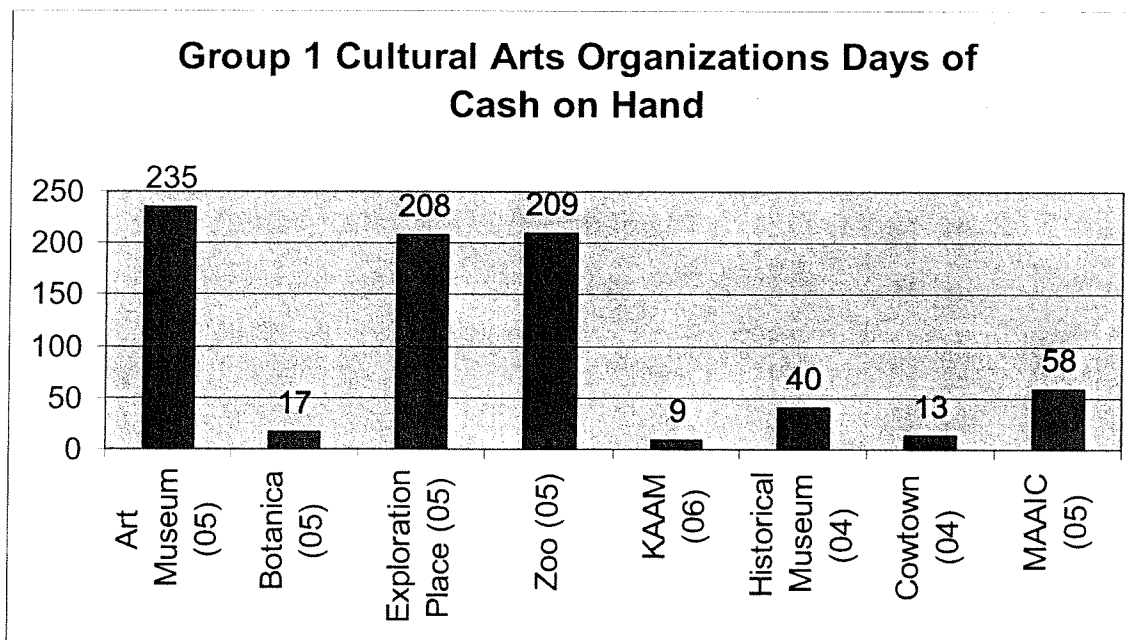
Conclusions from the ratio analysis include:

- Of the eight organizations reviewed, three had enough days of cash on hand to remain operating for more than six months. The Wichita Art Museum (235 days), the Sedgwick County Zoo (209 days) and Exploration Place (271 days).



- Five of the organizations had cash on hand to remain operating for less than two months: Botanica (13 days), Cowtown (13 days) Kansas African-American Museum (18 days), the Wichita-Sedgwick County Historical Museum (40 days), and the Mid-America All-Indian Center (58 days.)

**Chart 2. Days of Cash on Hand**



- The Wichita Art Museum, Exploration Place, the Sedgwick County Zoo, Cowtown, Mid-America All-Indian Center and the Historic Museum have working capital available for the organization to meet unplanned expenses. Botanica and the Kansas African American Museum do not.
- In concurrence, the Wichita Art Museum, Cowtown, Exploration Place, the Sedgwick County Zoo, and the Historic Museum have a liquidity ratio greater than 2.0, which indicates these organizations have an acceptable level of current assets being twice as large as current liabilities. The Mid-America All-Indian Center is close to reaching that goal with a 1.6 ratio. However, Botanica at .38 and the Kansas African American Museum at .25 would not be able to cover liabilities.

- The operating margin and return on net assets measure how the organization is keeping pace with inflation. Using an inflation rate of 3 percent, Botanica, Exploration Place and the Wichita-Sedgwick County Historic Museum are of most concern with long-term financial capacity. The Mid-America All-Indian Center's return rate is higher than most as the organization was in the process of saving to payoff a loan to the city and rebuilds wealth for the organization.

### Policy Considerations

While Sedgwick County has chosen to increase funding at Exploration Place and the Sedgwick County Zoo to facilitate organization needs and growth, the City of Wichita has capped budgeted funding. Organizations that receive significant amounts of public funding (Exploration Place, Sedgwick County Zoo, and Wichita Art Museum) are able to have more stable finances. The issue reflects on the earlier question raised by the arts organizations' directors: Does the community want to have organizations of mediocrity or excellence; and what is a realistic number of organizations to be supported by the public sector? The City of Wichita's capped funding has impacted Group 1 organizations – Cowtown, Mid-America All-Indian Center, Botanica, and the Historical Museum all have financial concerns. Improving the allocation process to support the significant public investment made to these organizations is imperative to address the financial stability of these organizations.

Local government must work with Group 1 and 2 organizations to help create a more secure financial future. Developing strategies to build capital and resources available to address short-term emergencies and long-term financial security is critical. In addition, increasing financial support either through private contributions or earned income must be a focus for all organizations to lessen the financial reliance on the public sector. Operating agreements serve as a tool for local government to monitor and work with the leaders of the cultural arts organizations to improve the financial future for the organization. Working with these organizations on financial development through board and organizational training programs is critical. Another important aspect to increase earned income is cultural arts organizations to clearly defining the market for their organization with detailed analysis on the patrons of their organizations: demographics, spending patterns, attendance and other relevant information.

Finally, ensuring the City and County's public funding commitment to all of the cultural arts organizations is critical. Both the local governments and cultural arts organizations must work together to develop tangible goals, define expectations and plan for the future. The proposed operating agreements are realistic means to accomplish such actions.

The research and review of the financial situation resulted in the Steering Committee creating the following goal and recommendations:

***Goal #2 –Finance: Direct local government financial support to fortify public investments and promote financial stability of cultural arts organizations.***

**Recommendations**

- A. Groups 1 and 2 cultural arts organizations will have operating reserves to ensure financial security for 3 to 6 months operating expenses. (January 2010-2011)***

***Implementation Strategies:***

1. Create a working group of local government, cultural arts organization leaders, and local institutions assisting nonprofits, to develop a training and implementation program for board and staff members to improve the quality of the long-term financial management of these organizations.
2. Establish an annual review with the Arts Council Cultural Funding Committee to review progress of the Group 1 and 2 cultural arts organizations.

***Anticipated Outcome:*** Creating financial stability and increasing capacity for the cultural arts organizations.

***Responsible Party:*** County-funded entities - Sedgwick County Board of County Commissioners; City-funded entities - City of Wichita City Council, County Manager's Office and City Manager's Office and Cultural Arts Division, plus the Arts Council for Implementation Strategy #1.

- B. Group 1 cultural arts organizations will demonstrate average annual growth over three years in earned income and/or private contributions. (January 2012)***

***Implementation Strategies:***

1. Create a working group of representatives from local government, cultural arts organizations, and local institutions assisting nonprofits, to develop a training and implementation program for board and staff members regarding long-term financial management.

2. Establish an annual review with the Arts Council Cultural Funding Committee to review progress of the Group 1 and 2 cultural arts organizations.

***Anticipated Outcome:*** Establishing a more disciplined approach to financial planning for cultural arts organizations.

***Responsible Party:*** County-funded entities: Sedgwick County Board of County Commissioners; City-funded entities: City of Wichita City Council, County Manager's Office and City Manager's Office and Cultural Arts Division; and the Arts Council.

***C. The City of Wichita shall continue its funding commitment to cultural arts of the equivalent of at least one mill levy. (November 2008)***

***Implementation Strategies:***

1. Develop appropriate council policy documents for continued commitment in 2008.
2. Continue to use the Arts Council Cultural Funding Committee with appointees named by the Wichita City Council and following the established process to allocate and make recommendations to the Manager and Mayor and City Council.

***Anticipated Outcome:*** Ensuring a stable funding process to support the work of cultural arts organizations in the community.

***Responsible Party:*** Wichita City Council

***D. City of Wichita should study and determine the appropriate level of funding for the Group 1 organizations, with the implementation of the operating agreements, and dedicate the appropriate mill rate to support that amount. (March 2009)***

***Implementation Strategies:***

1. Assess each group's shortfall that has developed due to the establishment of the 1999 capped funding.
2. Establish the index that should be used to determine what the additional funding allocation should be.
3. Review individual operating agreements annually to evaluate the group's performance.
4. Make recommendations during the budget process for arts funding allocations through the general fund.

***Responsible Party:*** City Manager's Office and Cultural Arts Division, Wichita City Council, Arts Council.

***Anticipated Outcome:*** Appropriate funding for Group 1 and Group 2 organizations via operating agreements between cultural arts organizations and local governments to ensure appropriate financial support for the cultural arts organizations.

**E. *Sedgwick County shall continue funding cultural arts organizations.***

***Implementation Strategy:***

- Explore additional opportunities for Sedgwick County to partner in the advancement of cultural arts in the community.

***Anticipated Outcome:*** Ensuring a stable funding process to support the work of cultural arts organizations in the community.

***Responsible Party:*** Sedgwick County Board of County Commissioners

**F. *The City of Wichita will ensure funding for maintenance is consistently categorized within the operating budget. (June 2009)***

***Implementation Strategies:***

1. Establish a team of internal city staff and representatives from City Group 1 organizations to clearly delineate all funding for maintenance operations for cultural arts organizations.
2. Create a consistent, easily identifiable budget process for maintenance expenses for all City Group 1 cultural arts organizations.

***Anticipated Outcome:*** Ensuring a transparent public budget for all cultural arts organizations.

***Responsible Party:*** City Manager's Office and Cultural Arts Division

## Section 3. – Value

For many decades, communities viewed the value of cultural arts primarily as a component of the quality of life of a community -- something that made living in a community better, but not critical to its vitality. In recent years, a serious attempt to measure the value of cultural arts in dollars and cents has emerged. More sophisticated methods of data collection and analysis have provided evidence of a high rate of return on investment in cultural arts by both private and public sectors in economic development, entertainment markets and tourism dollars. In addition, recent research indicates excellent quality of life and cultural opportunities are important in successfully recruiting business and industry and retaining residents (especially young adults) to a community. For these reasons, the Steering Committee believed it was important to develop recommendations in this plan to support and promote the value of cultural arts in the community.

Sources used for this section were: 1) The study of nonprofits in Sedgwick County, HWS; 2) A study by the *Americans for the Arts* on the economic impact of cultural arts; and 3) Review of peer cities and cities considered leaders in cultural arts.

### Nonprofit Art Organizations

In the fall of 2007, Melissa A. Walker, Associate Professor at the Hugo Wall School of Urban and Public Affairs at Wichita State University, created the first inventory of nonprofit organizations in Sedgwick County. Dr. Walker discovered there are 185 arts and cultural organizations, or 5 percent, of the total number of nonprofits in the county. The nonprofit cultural arts and cultural organizations include performance groups (36 percent of all arts organizations in the county), historic preservation groups (18 percent) and museums (16 percent).

### Economic Impact

Economic impact as defined by *Americans for the Arts* in their “Arts and Economic Prosperity III” released in June of 2007, is comprised of measures of employment, household income, and government revenues associated with event-related spending by cultural arts organizations and their audiences. Using 2005 data, the *Americans for the Arts* report indicates that the nonprofit arts and culture are a significant industry in Wichita/Sedgwick County — an

industry that generated almost \$50 million in local economic activity in a single year. The nonprofit arts and culture organizations themselves spent \$27.59 million, and their audiences spent an additional \$21.56 million in event-related purchases. Furthermore, these expenditures supported 1,512 full-time equivalent jobs, generated more than \$30 million in household income to local residents and delivered nearly \$5 million in revenue to local and state governments in that year alone.

The breakdown of the almost \$50 million in revenue generated in 2005 by nonprofit arts and cultural organizations and their audiences in Wichita/Sedgwick County is:

Total Expenditures	\$49,144,808
Full-Time Equivalent Jobs	1,512
Resident Household Income	\$30,328,000
Local Government Revenue	\$ 2,536,000
State Government Revenue	\$ 2,221,000

The above analysis was based on 2005 data provided by 21 of the largest arts groups in Wichita and Sedgwick County. Thirty-six arts organizations were invited to participate. Thus, the data only represents 58 percent of the largest stakeholders in the market which leads to a conservative estimate on generated revenues.

#### Economic Impact of Cultural Arts on Tourism:

Cultural arts events and activities bring out-of-towners to visit our city and county attractions and they invest their dollars in our community. *Americans for the Arts* reported that, in 2005, tourists who attended cultural events contributed 48 percent more money in the community than local residents. These dollars were used, in large measure, to purchase lodging, meals and transportation. Therefore, the community must focus on strategies to attract cultural tourists to reap significant economic rewards.

The Convention and Visitors Bureau reported that in 2007, total attendance at 29 attractions in Wichita and Sedgwick County was 1,542,669 persons, a 13 percent increase over attendance in 2006. Many of these attractions feature cultural arts.

### Impact on Quality of Life

*Visioneering Wichita* was a recent comprehensive community planning effort that engaged a significant number of community members in the metropolitan area. The plan was completed in 2004 and created a blueprint for success by 2024 for the Wichita area. In the community engagement process, recognizing and promoting the value of cultural arts were identified as critical components of improving the quality of life for our community. The community established promoting arts and recreation among the top recommendations for improving the quality of life in the community.

Quality of life can be measured in other ways. Cultural arts can be used effectively to bring groups of diverse people together to determine a sense of group identity and to develop a way to carve out a good life together. This is often referred to as building community through the arts. In many communities, cultural institutions have been incorporated into revitalization efforts, often in downtown areas, and arts organizations have rented space in rehabilitated historic buildings.

Promoting the value of cultural arts as a community quality of life component is a challenge for both the public sector and cultural arts organizations. Partnering to ensure a vital and progressive cultural arts community is of significant importance to achieving long-term sustainability for the community.

### Impact on Children's Education

Cultural arts are an important component in the education of children as reported in a comprehensive study entitled, "Eloquent Evidence: Arts at the Core of Learning." This study reported that arts education resulted in students writing better essays, developing greater understanding of core subjects, improved reading and vocabulary skills and increased creativity. Art education prompted interactive classroom discussions, created better analytical skills and provided students with greater self-esteem and acceptance of others. Because of the mounting evidence linking the arts to basic learning, some researchers refer to the arts as "The Fourth R."

### Policy Considerations

Local government must determine its appropriate role in promoting the value of cultural arts to enhance the quality of life in the community. As major stakeholders in many of the largest



community nonprofit cultural arts organizations, local governments need to consider how best to use resources to promote and support the value of cultural arts locally. Cultural arts organizations and local governments must work to: 1) understand the community's financial capacity for supporting cultural arts; 2) promote partnerships; 3) advance the role and impact of arts in the community; 4) provide for a complimentary environment for the arts; and 5) encourage continual expression of value of cultural arts in the community.

These policy considerations have resulted in the following recommendations:

***Goal #3 –Value: Develop and advance the support of cultural arts in the community.***

**Recommendations**

***A. Determine the capacity of the private and public sectors for financial support of cultural arts in the community. (January 2010)***

***Implementation Strategies:***

1. Determine, to the extent possible, the private and public giving to cultural arts organizations in Wichita/Sedgwick County and compare to successful peer cities.
2. Use information from Implementation Strategy 1 to recommend funding levels and additional funding sources for cultural arts in Wichita/Sedgwick County.

***Anticipated Outcome:*** Providing for cultural arts organizations and local governments to have independent research information on financial capacity and potential growth from private and public sector funding sources.

***Responsible Party:*** Arts Council, County Manager's Office, City Manager's Office and Cultural Arts Division

***B. Develop an advocacy plan to secure public and private funding for cultural arts organizations. (January 2010)***

***Implementation Strategies:***

1. Develop a comprehensive annual advocacy campaign.
2. Implement a public education component emphasizing the socio-economic benefits of cultural arts in the community.
3. Provide art supporters the necessary tools and training to successfully advocate through the continuation of the Art Council's Advocacy Handbook and other related efforts.

***Anticipated Outcome:*** Increasing public and financial support for cultural arts organizations.

***Responsible Party:*** Arts Council

***C. Ensure a vibrant community through the inclusion of cultural arts when planning community initiatives for the built environment. (January 2009)***

***Implementation Strategies:***

1. Assure aesthetic excellence in private and public development with adequate funding:
  - a. Utilize the City of Wichita Design Council; and
  - b. Incorporate aesthetic expertise at the design levels
2. Ensure inclusion of cultural arts in neighborhood plans and other community initiatives.

***Responsible Party:*** Arts Council, County Manager's Office, City Manager's Office and Cultural Arts Division

***Anticipated Outcomes:*** Creating a vibrant community infused with arts, culture and aesthetic excellence.

***D. Conduct a cultural arts facility needs assessment to support the current and future needs of the arts. (December 2009)***

***Implementation Strategy:***

- Initiate a Request for Proposal to hire a professional consultant to assist with the needs assessment.

***Responsible Party:*** Arts Council, County Manager's Office, City Manager's Office and Cultural Arts Division

***Anticipated Outcomes:*** Determining opportunities for shared resources and identifying community cultural arts facility needs.

***E. Encourage collaborative partnership efforts among cultural arts organizations. (January 2009)***

***Implementation Strategies:***

1. Provide financial incentives for collaboration.
2. Expand joint marketing efforts to maximize resources.
3. Research best practices to support collaborative efforts.
4. Create and analyze market research to understand and target patrons of the organizations.

5. Explore collaborative community-wide programming and operational efforts to showcase cultural arts in the community.

***Anticipated Outcome:*** Improving use of financial and human resources for cultural arts programming

***Responsible Party:*** Arts Council, County Manager's Office, Cultural Arts Organizations, and City Manager's Office and Cultural Arts Division

***F. Ensure each Group 1 and 2 cultural arts organization develops and implements strategies to inform the public regarding the value of its organization to the community. (October 2009)***

***Implementation Strategies:***

1. Ensure public value strategies and implementation plans are part of the operating agreements with Group 1 and 2 organizations.
2. Establish community-wide evaluation criteria to determine impact of campaigns on the change in attitude on the importance of cultural arts in the community.
3. Collaborate with Visioneering Wichita to include cultural arts information with the current effort to collect information on changes in public opinion.

***Anticipated Outcome:*** Increasing public and financial support for cultural arts organizations.

***Responsible Party:*** Arts Council, Cultural Arts Organizations, County Manager's Office, Visioneering Wichita, and City Manager's Office and Cultural Arts Division

## Appendix A: Steering Committee

<b>Cultural Arts Plan</b>				
<b>Steering Committee</b>				
<b>Members</b>				
	<b>NAME</b>			
	Howard	Ellington		
	Joe	Miller		
	Sheryl	Wohlford		
	Ken	Giboski		
	Darren	Muci		
	Bryan	Frye		
	Delmar	Klocke		
	Janet	Miller		
	Paula	Langworthy		
	Vera	Bothner		
	Brian	Black		
	David	Burk		
	Shoko	Sevart		
	Dan	Rouser		
	Charles	Steiner		
	Chris	Shank		
	Anna	Anderson		
	Mael	Hernandez		
	Joan	Cole		
	Steve	Peters		
<b>Ex-Officio Chairs</b>				
Council Member	Sharon	Fearey		
Chairman	David	Unruh		
<b>Staff</b>	John	D'Angelo		
	Ron	Holt		
	Irene	Hart		
	Cathy	Holdeman		
<b>Hugo Wall School</b>	Nancy	McCarthy Snyder		
	Melissa	Walker		
	Misty	Bruckner		
	Lisette	Jacobson		
	Michelle	Stroot		

[illegible]57

<b>Sedgwick County Zoo</b>	The Sedgwick County Zoological Society is the governing board for the zoo. It is a private board with fiduciary and shared staffing and administrative responsibility with Sedgwick County.	There are three appointments by the County, with voting rights. The appointments or their designees are: County Chairperson, County Manager and another County employee (Assistant County Manager).	County hires the Director with input from the Board. There are 98.5 FTE employees (that work directly with the animals) that are County employees. There are approximately 25 employees that handle administrative services that are employees of the Zoological Society.	The Director reports to Assistant County Manager. All employees (whether County or Zoological Society employees) report to the Director.	The County owns land and all the assets. As long as the zoo operates as a zoo, the Board operates the assets.	County funding is used for employee expenses; any carry-over funds from vacant staffing positions may be used for facility improvements the following year.	All capital improvements for new exhibits are the responsibility of the Zoological Society. However, it has been the past practice for the County to provide funding for the staffing of those exhibits.	This is a long-term private-public partnership which initiated out of the need to expand the Riverside Zoo. The zoo opened in 1971 and has had a similar partnership between the Zoological Society and Board of County Commissioners since its conception.	None
	<b>Board Membership, Functions and Status</b>	<b>Local Government Appointment to Board</b>	<b>Personnel Oversight</b>	<b>Personnel Reporting Structure</b>	<b>Land/Facility/Collection Ownership</b>	<b>Operations</b>	<b>Local Government Capital Commitment</b>	<b>Historical Information</b>	<b>Other Issues</b>
<b>Old Cowntown Museum</b>	There are 13 members as part of the self-appointing private, advisory board.	The board is an Advisory Board to the City Council. However, it remains a self-appointing private board with no City appointments.	Under the new arrangements in 2007, the City will hire the director. There are 16 FTE employees planned for Cowntown.	All staff report to the Cultural Arts Division.	The City owns land and all of the facilities. The collection is owned by the Board.	The City is responsible for the operations of the facility and provides support from other City departments.	Funding is planned from the CIP.	Prior to the fall of 2007, this was a private board with two appointments from the City and the County. The Director used to be a County employee. Financial issues led to the City taking over responsibility of the operations and the Board to become an advisory board.	The organization is in a time of transition, since coming under city operations in fall of 2007.
<b>Mid-America All-Indian Center</b>	The board is an eleven member, private board that has administrative and fiduciary responsibility.	There are three seats appointed by the City Council with voting rights.	There are two City employees.	All employees report to the Cultural Arts Division.	The City owns the land and the facility. The Board owns the collection.	City provides for operations from other City departments and by direct funding to the Center.	Capital improvements are planned as part of the City's CIP.	In 1976, the building was part of a federal funding program to celebrate the Bicentennial. Due to financial management issues, the City became responsible for administrative function in 2005.	The organization is working on implementing a strategic plan and has become financially stable since partnering with the City.
<b>Kansas African American Museum</b>	The board is a private board that is self-appointing.	The County has the appointment of the County Manager (or designee) and a County Commissioner.	All employees are employees of the private board.	No employees report to either local government.	The County owns building and land. The private board owns the collection.	The operations are the responsibility of the private board.	The City owns the land for the future, planned site.	The capital campaign for a new facility has been in progress for a few years.	The process has started to hire for the vacant executive director position.

Wichita-Sedgwick County Historical Museum	The board is a private board that is self- appointing.	The local government has no appointments.	All employees are employees of the private board.	No employees report to either local government.	The city owns the land and facility. The Board is responsible for the collection.	The City provides operations and maintenance.	Capital improvements are the responsibility of the Board.	The Director used to report to the City Manager's Office, but was changed 8-10 years ago to be a private position.	None
	Other Organizations -- Government Relationships	Issues or Concerns							
Wichita Symphony	City provides 35% off performance; leased by the City at a nonprofit market-rate office space; no charge for use of other facility for storage, staging, etc.	Other organizations would like similar relationship, office space, etc., which is not possible							
Music Theatre	City provides 35% off performance; leased by the City at a nonprofit market-rate office space; no charge for use of other facility for storage, staging, etc.	Other organizations would like similar relationship, office space, etc., which is not possible							
Grand Opera	City provides 35% off performance; leased by the City at a nonprofit market-rate office space; no charge for use of other facility for storage, staging, etc.	Other organizations would like similar relationship, office space, etc., which is not possible							
Fire Museum	City owns facility; no other commitment	None							
Museum of World Treasures	City owns facility; supposed to be profit sharing	Performance managed by Property Management/ Development Director							
Sports Museum	99 year lease; bond payments responsibility of Board, but would default to City	Financial stability of museum							

## ***Appendix C: Arts Council History***

The Wichita Fine Arts Council was established by city ordinance in 1966. It was housed under the Community Arts office, which administered arts operations for the city. Its purpose was to support the arts in Wichita and make them more accessible to citizens.

In May 1983, after the closing of the Community Arts Office, the Arts Council assumed 501c3 non-profit status and was charged with the mission to advise city commissioners on matters regarding the arts and quality of life.

In 1994, the City and the Arts Council commissioned the Community Cultural Plan and it was approved by the City Council. This plan recommended a number of goals and actions that were geared toward embracing the arts and culture as tools to address concerns such as economic development, public safety, and neighborhood revitalization. The Arts Council was officially designated as the organization responsible for carrying out the Cultural Arts Plan.

The current organization is operated by a Board of Directors and has changed its name to the Arts Council in order to encompass a broader service area and variety of activities. It serves as an advisory board to the Wichita City Council and is housed at CityArts. CityArts staff provides support for the Arts Council. A majority of Arts Council programs take place at the CityArts facility.

### **Mission Statement**

To advance and promote arts and culture in the Wichita community through advocacy, leadership education and collaboration.

### **Art Council Goals**

The Arts council is designated by the City of Wichita to serve as the focal point for coordinating the visibility of and promoting all the cultural arts in the community. The Arts Council and the City work cooperatively to carry out the Cultural Arts Plan of the City of Wichita in cooperation with committees, members of the organization and others.

The Arts Council receives funds from the City, the County and the State for a range of activities. While several of its goals speak to educating citizens on how to participate in public decision-making, advocacy has not been one of its primary goals until recently. The Board developed the following goals as components of their mission to promote the cultural arts in our community:

- Raise the level of awareness of arts organizations and arts education and create an environment which nurtures artists and the arts.
- Develop a long-term funding source.
- Expand partnerships regionally and increase accessibility to smaller communities, low income, youth, and handicapped citizens.
- Promote and help fund the inclusion of art and aesthetic considerations in local public decision-making.
- Equalize access, nurture cultural activities and preserve our culturally diverse community.
- Serve as the voice for the artistic and cultural communities and create opportunities for communication between arts and cultural organizations.
- Develop and implement Wichita's Cultural Plan.



Appendix D: Finance Matrix

	Total Revenue	Total Expenses	Deficit/Surplus	Private Contributions	Earned Income	Government Contributions 2005	Other Income: Interest earned on investments, sale of assets, etc.	Percentage of Revenues from Government Contributions	Percentage of Revenues from Private Contributions	Percentage of Revenues from Earned Income	Percentage of Revenues from other sources, such as: interest income from investments, sale of assets, or other sources	TOTAL Revenue Percentage
Wichita Art Museum (2005)	\$2,984,014	\$2,330,999	\$653,015	\$881,310	\$219,248	\$1,320,914	\$562,542	44%	30%	7%	19%	100%
Botanica (2005)	\$1,277,434	\$1,196,414	\$81,020	\$451,896	\$512,109	238,800	74,629	19%	35%	40%	6%	100%
Exploration Place (2005)	\$1,938,207	\$5,524,901	(\$3,586,694)	\$29,921	\$1,076,187	780,281	51,818	40%	2%	56%	3%	100%
Sedgwick County Zoo (2005)	\$8,754,184	\$8,825,470	(\$71,286)	\$1,026,521	\$3,483,034	\$3,839,649	\$404,980	44%	12%	40%	5%	100%
Cowtown (2004)	\$1,404,216	\$1,227,466	\$176,750	\$253,008	\$328,256	\$796,946	\$26,006	57%	18%	23%	2%	100%
Kansas African-American Museum (2006)	\$431,349	\$442,603	(\$11,254)	\$114,398	\$36,462	\$255,630	\$24,859	59%	27%	8%	6%	100%
Wichita-Sedgwick County Historical Museum/Asn. (2004)	\$807,878	\$765,821	\$42,057	\$44,561	\$43,685	\$374,713	\$344,919	46%	6%	5%	43%	100%
Mid-America All-Indian Center (2005)	\$386,862	\$315,957	\$70,906	\$55,617	\$97,439	\$227,900	\$5,906	59%	14%	25%	2%	100%
TOTALS	\$17,984,144	\$20,629,631	(\$2,645,486)	\$2,857,232	\$5,796,420	\$7,834,833	\$1,495,659	44%	16%	32%	8%	

## Appendix E: Public Funding

### City/County Budget Allocations 2005-2007

	City of Wichita 2005	Sedgwick County 2005	City of Wichita 2006	Sedgwick County 2006	City of Wichita 2007	Sedgwick County 2007
Wichita Art Museum	\$2,072,255	\$50,000	\$1,282,638	\$0	\$1,282,449	\$0
Botanica	\$274,204	\$0	\$252,775	\$0	\$244,853	\$0
Exploration Place	\$0	\$300,000	\$0	\$1,410,410	\$0	\$2,500,862
Sedgwick County Zoo	\$0	\$3,816,649	\$0	\$4,077,748	\$0	\$4,465,476
Cowtown	\$241,850	\$801,447	\$335,850	\$579,207	\$296,018	\$520,157
Kansas African-American Museum	\$2,230	\$162,450	\$77,330	\$164,950	\$37,330	\$162,450
Wichita-Sedgwick County Historical Museum Assn.	\$107,572	\$96,573	\$106,108	\$96,573	\$116,000	\$96,573
Mid-America All-Indian Center	\$57,900	\$0	\$82,684	\$0	\$88,420	\$0

\*Information from 2006-2009 Sedgwick County and City of Wichita Budget Documents

## Funding for the Arts

Organization	2006	2007	2008	2009	Total to Date
Arts Council	\$6,540.00	\$6,540.00	\$6,540.00	\$6,540.00	\$26,160.00
Botanica	\$232,500.00	\$232,500.00	\$232,500.00	\$232,500.00	\$930,000.00
Cowtown	\$241,850.00	\$241,850.00	\$241,850.00	\$241,850.00	\$967,400.00
Historical Museum	\$93,000.00	\$93,000.00	\$93,000.00	\$93,000.00	\$372,000.00
Mid-America All-Indian Center Museum	\$57,900.00	\$57,900.00	\$57,900.00	\$57,900.00	\$231,600.00
The Kansas African-American Museum	\$2,330.00	\$2,330.00	\$2,330.00	\$2,330.00	\$9,320.00
Wichita Art Museum	\$1,279,960.00	\$1,279,960.00	\$1,279,960.00	\$1,279,960.00	\$5,119,840.00
<b>Sub-total Flat Funded Organizations</b>	<b>\$1,914,080.00</b>	<b>\$1,914,080.00</b>	<b>\$1,914,080.00</b>	<b>\$1,914,080.00</b>	<b>\$7,656,320.00</b>
American Guild of Organists	\$0.00	\$0.00	\$0.00	\$450.00	\$450.00
Arts Partners	\$35,000.00	\$20,000.00	\$20,000.00	\$33,000.00	\$108,000.00
Ballet Wichita	\$7,000.00	\$5,000.00	\$25,000.00	\$15,000.00	\$52,000.00
Botanica	\$39,000.00	\$26,000.00	\$37,500.00	\$85,000.00	\$187,500.00
Chamber Music at the Barn	\$30,000.00	\$25,000.00	\$30,000.00	\$20,000.00	\$105,000.00
Cowtown	\$94,000.00	\$50,000.00	\$0.00	\$150,000.00	\$294,000.00
Decorative Arts Collection	\$10,000.00	\$0.00	\$0.00	\$0.00	\$10,000.00
El Pueblo	\$7,500.00	\$0.00	\$0.00	\$0.00	\$7,500.00
Exploration Place	\$62,500.00	\$30,000.00	\$0.00	\$0.00	\$92,500.00
Friends University - Fine Arts Dept	\$0.00	\$5,000.00	\$0.00	\$14,000.00	\$19,000.00
Griots Storytelling Institute	\$5,000.00	\$3,500.00	\$4,000.00	\$1,000.00	\$13,500.00
Heart of America's Mens Chorus	\$0.00	\$5,000.00	\$6,500.00	\$5,000.00	\$16,500.00
Historical Museum	\$13,000.00	\$23,000.00	\$33,000.00	\$43,000.00	\$112,000.00
Kansas African-American Museum	\$75,000.00	\$35,000.00	\$35,000.00	\$25,000.00	\$170,000.00
Kansas Aviation Museum	\$50,000.00	\$30,000.00	\$30,000.00	\$28,000.00	\$138,000.00
Kansas Firefighter's Museum	\$10,000.00	\$7,500.00	\$7,500.00	\$0.00	\$25,000.00
Kansas Sports Hall of Fame	\$0.00	\$36,000.00	\$0.00	\$0.00	\$36,000.00
Mid-America All-Indian Center Museum	\$0.00	\$30,000.00	\$50,000.00	\$60,000.00	\$140,000.00
Museum of World Treasures	\$20,000.00	\$0.00	\$0.00	\$0.00	\$20,000.00
Music Theater for Young People	\$5,000.00	\$5,000.00	\$0.00	\$4,000.00	\$14,000.00
Music Theater of Wichita	\$0.00	\$75,000.00	\$75,000.00	\$75,000.00	\$225,000.00
Opera Kansas	\$7,500.00	\$10,000.00	\$14,000.00	\$5,000.00	\$36,500.00
Orpheum Performing Arts Center	\$48,500.00	\$40,000.00	\$65,000.00	\$50,891.00	\$204,391.00
Sedwick County Zoo	\$0.00	\$47,651.00	\$100,000.00	\$45,000.00	\$192,651.00

## Funding for the Arts

Organization	2006	2007	2008	2009	Total to Date
Tallgrass Film Festival	\$0.00	\$0.00	\$15,000.00	\$10,000.00	\$25,000.00
Theatre on Consignment	\$3,000.00	\$0.00	\$0.00	\$0.00	\$3,000.00
Ulrich Museum of Art	\$25,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$85,000.00
Wichita Art Museum	\$100,000.00	\$125,000.00	\$176,000.00	\$240,000.00	\$641,000.00
Wichita Asian Association	\$7,000.00	\$7,000.00	\$7,000.00	\$3,000.00	\$24,000.00
Wichita Black Arts Festival	\$0.00	\$0.00	\$0.00	\$3,000.00	\$3,000.00
Wichita Center for the Arts	\$0.00	\$10,000.00	\$0.00	\$0.00	\$10,000.00
Wichita Children's Theater	\$0.00	\$50,000.00	\$50,000.00	\$40,000.00	\$140,000.00
Wichita Chamber Chorale	\$5,000.00	\$5,000.00	\$0.00	\$2,000.00	\$12,000.00
Wichita Film and Music Festival	\$0.00	\$10,000.00	\$15,000.00	\$3,000.00	\$28,000.00
Wichita Grand Opera	\$10,000.00	\$10,000.00	\$26,000.00	\$30,000.00	\$76,000.00
Wichita Public Library Foundation	\$0.00	\$25,000.00	\$25,000.00	\$22,500.00	\$72,500.00
Wichita Symphony Orchestra	\$40,000.00	\$90,000.00	\$100,000.00	\$95,000.00	\$325,000.00
<b>Sub-total Cultural Funding Grants</b>	\$711,006.00	\$862,658.00	\$968,508.00	\$1,129,850.00	\$3,663,992.00
<b>Grant Total Arts Funding</b>	\$2,625,086.00	\$2,776,738.00	\$2,882,588.00	\$3,043,930.00	\$11,320,312.00

# Appendix G

Cultural Plan Update 2008

Ratio Analysis

7.24.08

	Net Income	Days of Cash on Hand=Cash and cash equivalent divided by operating expenses less bad debt and depreciation <small>divided by 265</small>	Current Ratio=Current Assets divided by Current Liabilities	Working Capital=Current Assets minus Current Liabilities	Operating Margin=Net Income divided by Total Revenue	Return on Net Assets=Net Income divided by Beginning Net Assets
Wichita Art Museum (05)	\$635,015	235	18.54	\$1,731,158	17.00%	7%
Botanica (05)	\$81,020	17	0.38	[\$84,090]	6.00%	5%
Exploration Place (05)	[\$3,586,694]	208	25.2	\$5,038,810	[1.85]	[0.14]
Sedgwick County Zoo (05)	[\$71,286]	209	8.2	\$5,189,196	12.00%	3%
Kansas African-American Museum (06)	[\$11,254]	9	0.25	[\$33,049]	[0.03]	[0.05]
Historical Museum (04)	\$42,057	40	12.5	\$73,073	3.00%	1%
Cowtown (04)	\$176,750	13	7.3	\$1,548,186	13.00%	10%
Mid-America All-Indian Center (05)	\$70,906	58	1.6	\$30,016	18.00%	86%

RESOLUTION NO. 06-208

A RESOLUTION REFLECTING THE INTENT AND POLICY OF THE CITY COUNCIL  
WITH RESPECT TO FUNDING ARTS AND CULTURE.

WHEREAS, the Governing Body of the City of Wichita, Kansas established an Arts Task Force (the "Task Force") on March 16, 2004, to study funding support for the arts in the City of Wichita, Kansas (the "City") and to make recommendations concerning the same; and,

WHEREAS, the Task Force has recommended dedicated funding of the arts, by way of a special levy or funding allocation that would earmark funds for such purposes each year, in the approximate amount that would be raised in such year by 1 mill of the City's general tax levy on the assessed valuation of all tangible taxable property then subject to such levy; and,

WHEREAS, the City has been able to identify no statute authorizing a dedicated or special levy, or establishment of a budget fund, for the foregoing purpose, but the Governing Body supports funding for the arts at the proposed level as a matter of ongoing policy, to be implemented in the adoption and adjustment of each annual budget;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Establishment of Funding Formula. It is the policy of the City Council to provide funding for arts and culture each year at a level approximating the amount that would be raised in such year by 1 mills of the City's general, ad valorem tax levy on the total assessed valuation of all tangible taxable property then subject to such levy, with the intent of reallocating such funds from the existing budget, without any increase in the overall levy rate, to support arts and cultural organizations and facilities (as defined in the following section).

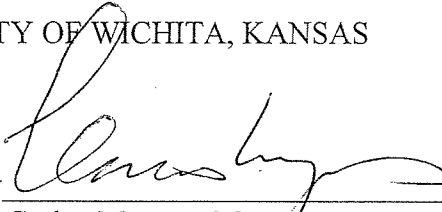
Section 2. Arts and Cultural Organizations and Facilities. The concept of "arts and cultural organizations and facilities," as operative within this policy, shall include organizations and facilities that provide for the enlightenment and entertainment of the public through the production, exhibition, advancement, or preservation of art, literature, music, theater, dance, zoology, science, botany, natural history or cultural history. Existing organizations currently receiving funding from the City's general fund include the Arts Council, the Wichita Art Museum, Botanica, Cowtown, Mid-America All-Indian Center, the Kansas African American Museum, and the Wichita-Sedgwick County Historical Museum.

Section 3. Arts Council Review Committee. In allocating funds among arts and cultural organizations and facilities that seek City support for their programs and functions, the Governing Body will consider recommendations made by the City Manager and recommendations made by a Review Committee that will be established by the Arts Council and Governing Body. The Review Committee will be a separate committee of the Arts Council, and possess a broad based knowledge of the arts. The committee will have eleven members, seven of whom will be appointed by the Governing Body, and four of whom will be appointed by the Arts Council. Members of the Review Committee will include representatives from government, business, community, philanthropic organizations, education and the arts. The Review Committee will evaluate applications for funding from arts and cultural organizations and facilities. Performance measures, outlined by the Arts Taskforce, will be submitted by applicants for evaluation by the Review Committee.

Section 4. Submission of Recommendations. Recommendations made by the Review Committee shall be submitted to the City Manager's Office no later than the first Friday in June, to facilitate their presentation to the Governing Body in coordination with the City Manager's own recommendations and the City Manager's Proposed Budget. In the course of the budget hearings, applicants and members of the public will be afforded an opportunity to comment on such recommendations, and any related recommendations included in the Proposed Budget.

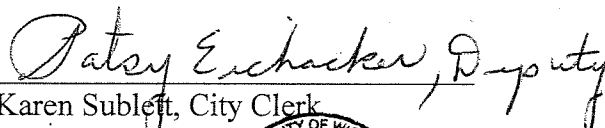
ADOPTED by the Governing Body of the City of Wichita, Kansas, this 2<sup>nd</sup> day of May, 2006.

CITY OF WICHITA, KANSAS

By   
Carlos Mayans, Mayor



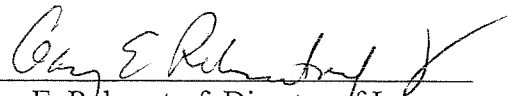
ATTEST:

for   
Karen Sublett, City Clerk

(SEAL)



Approved as to Form

  
Gary E. Rebenstorf, Director of Law

City of Wichita  
City Council Meeting  
May 2, 2006

Agenda Report No. \_\_\_\_\_

**TO:** Mayor and City Council

**SUBJECT:** Funding Support for the Arts

**INITIATED BY:** City Council

**AGENDA:** City Council Agenda

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**Recommendation:** Adopt the resolution and Art Taskforce process and recommendations to allocate 1 mill levy annually to be distributed through the Cultural Funding Review process and to be evaluated after four (4) years.

**Background:** In 1994, the City Council and the Arts Council commissioned an independent study of the impact and potential of local arts and culture, which resulted in the approval of the Wichita Community Cultural Plan. One of the goals of the Cultural Plan was to establish a funding mechanism that would encourage cultural resources to become active partners.

On March 16, 2004, the City Council approved the formation of an Arts Task Force. The Arts Task Force was asked to accomplish the following and return with their recommendations:

- Study current funding support for the arts;
- Determine an equitable process for the City Council to evaluate requests for funding;
- Develop public and private funding options and;
- Designate the appropriate department for which the Division of Arts and Culture should reside.

At the December 14, 2004, City Council meeting, a resolution for arts funding and Arts Task Force recommendations were presented to the City Council. The Council agreed to increase this mill levy allocation to 1 mill and utilize a tiered system for both established and emerging arts organizations.

On February 8, 2005 the City Council approved the formation of the Cultural Funding Review Committee consisting of 11 members. Members of City Council appointed 7 members. The Arts Council appointed 4 members. The committee consisted of representatives from government, education, business, philanthropy, arts organizations and the public at large. The committee was assigned the responsibility to make recommendations to members of City Council on distribution of additional funding for the arts from the 1 mill allocation resulting in \$719,000 in 2006.



The presentation to the Council noted that organizations currently receiving funding would continue to receive funds at their current level; however, they will be subject to the same application/evaluation process as all other organizations seeking funding. Those organizations include: Wichita Art Museum, Botanica, Old Cowtown Museum, Arts Council, Mid-America All-Indian Center, the Kansas African American Museum, and the Wichita-Sedgwick County Historical Museum.

The Cultural Funding Committee reviewed grant applications from 34 organizations using the approved application review process. The recommendations for the allocation of funding were then approved by City Council as part of the 2006 budget approval process on August 9, 2005. Contracts for the \$719,000 allocation of funds were approved on December 10, 2005.

**Analysis:** The Task Force has developed what they believe to be a fair and equitable process that will protect the City's current \$75 million investment in the arts while encouraging the development of other existing and emerging organizations. The Task Force believes that they must protect its current investments in the organizations that have become an integral part of the community's culture. This investment includes the City's ownership of various properties and entities within the community including the Wichita Art Museum, Old Cowtown Museum, Botanica, and many others. Through historical agreements, the City has made substantial investments in these facilities to purchase, promote and maintain them.

The Task Force believes that the current levels of funding and in-kind support are needed to continue to protect the \$75 million investment the City of Wichita has made to the arts. It is imperative that the City continues to promote and encourage growth of the arts as a vehicle for cultural tourism rather than make further reductions to the arts or simply maintain the status quo. A resolution to establish a funding formula needs to be approved/adopted for the arts and cultural community.

**Financial Considerations:** The process for performance-based criteria developed by the Arts Task Force and facilitated by the Cultural Funding Review Committee has created an equitable and fiscally responsible method for distributing funds to arts organizations. A resolution is recommended to allocate 1 mill levy to be distributed annually through the Cultural Funding Review process to the arts and cultural organizations and to be reviewed by City Council after four (4) years.

**Legal Considerations:** Law Department has prepared and approved the form of the proposed policy resolution.

**Recommendations/Actions:** It is recommended that the City Council approve/adopt the resolution and Art Taskforce process and recommendations to allocate 1 mill levy annually to be distributed through the Cultural Funding Review process and to be evaluated after four (4) years.

**City of Wichita**  
**City Council Meeting**  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** Cultural Arts Plan (All Districts)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** New Business

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**Recommendation:** Adopt the updated Cultural Arts Plan and continue the one mill dedicated funding for the arts, along with the Cultural Arts Funding Committee, with another review in five (5) years.

**Background:** The Wichita Cultural Arts Plan was completed in 1994. Due to recent financial and governance issues experienced by some of the City's and County's cultural institutions, it was determined that it would be beneficial to engage in an update of this plan. The City Council authorized a plan update in the fall of 2007 and appointed a steering committee comprised of stakeholders, community members and local governing officials to assist with the update. The Hugo Wall School of Urban and Public Affairs (HWS) was retained to assist with plan development.

The Steering Committee's work focused on reviewing critical issues facing cultural arts organizations and establishing priorities for the City of Wichita and Sedgwick County relating to finance and governance of cultural organizations. The Committee's goal was to create a plan that will serve as a guide for the allocation of human and financial resources for both the City and the County.

**Analysis:** The updated Cultural Arts Plan is intended to be an action plan to assist local governments and cultural arts organizations with strengthening relationships, promoting disciplined financial planning and supporting initiatives that support the value and importance of cultural arts in the community. It provides recommendations associated with governance, finance and value.

Governance recommendations include: A) the creation of management operating agreements between local governments and arts/cultural organizations; B) reorganizing the administration of the City's arts organizations; C) developing optional compensation benefit packages; D) requiring City elected or staff participation on boards; and E) strengthening the role of the Arts Council with respect to advocating and promoting the arts.

Finance recommendations include: A) defining operating reserves to ensure financial security; B) demonstrating average annual growth in earned income and/or private contributions; C) continuing the City's commitment for mill levy funding; D) determining the appropriate level of funding for City organizations defined as Group 1; E) continuing funding by Sedgwick County for its arts organizations; and F) ensuring funding for maintenance.

Recommendations associated with advancing the value of cultural arts include: A) determining the capacity of the public and private sectors for financial support of the arts; B) developing an advocacy plan; C) including cultural arts when planning community initiatives for the built environment; D) conducting a cultural arts facility needs assessment; E) ensuring collaborative partnerships among the arts organizations; and F) ensuring that arts organizations develop and implement strategies to inform the public on the value of the arts.

**Financial Considerations:** The plan recommends the continued allocation of the equivalent of at least 1 mill levy for the competitive grant process created through the cultural funding review process.

**Goal Impact:** The Cultural Arts Plan addresses the City's goal for improving the Quality of Life.

**Legal Considerations:** None.

**Recommendations/Actions:** Adopt the updated Cultural Arts Plan and continue the one mill dedicated funding for the arts, along with the Cultural Arts Funding Committee, with another review in five (5) years.

**Attachments:** Cultural Arts Plan 2008, Resolution 06-208

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing and Issuance of Industrial Revenue Bonds (RAW Investments, Inc.) (District IV)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Close public hearing and place the ordinance on first reading.

**Background:** On April 15, 2008, the City Council approved a one-year letter of intent to issue Industrial Revenue Bonds (“IRBs”) in an amount not to exceed \$2,500,000, and a 100% five-plus-five year property tax exemption for RAW Investments, Inc. to benefit Cessna Aircraft Company. RAW Investments, Inc. is requesting the issuance of IRBs at this time. RAW Investments, Inc. has completed construction of a 75,000 sf warehouse which will be leased to RAW Investments, Inc. with a sublease to Cessna. The final bond issue amount is \$1,900,000.

**Analysis:** Bond proceeds will be used to finance a recently constructed 75,000 sf facility located at 1950 S. Hoover Road. The warehouse will be leased to RAW Investments, Inc. and subleased for a ten-year term to Cessna Aircraft Company, the ultimate beneficiary of the project. Approximately 60,000 sf will be used for warehousing and distribution of parts to the manufacturing operation for just-in-time operations. The remaining 15,000 sf will be office space used for support, marketing and sales functions. The consolidation of existing warehouse space into the new facility allows Cessna to expand their manufacturing operations. Cessna plans to add 20 new positions with an average annual wage of \$77,800 as a result of the proposed project. They will transfer approximately 30 existing positions to the new facility.

RAW Investments, Inc. is a real estate investment and development company located at 2008 W. Harry Court. RAW Investments, Inc. is serving as the developer and primary lessee; however, the project will directly benefit Cessna and provide opportunity for job creation and further expansion of Cessna’s presence in Wichita.

The City’s contract bond counsel firm, Kutak Rock LLP, is serving as bond counsel in the transaction. RAW Investments, Inc. agrees to comply with the City’s Standard Letter of Intent Conditions. RAW Investments will be purchasing and holding the bonds.

**Financial Considerations:** RAW Investments, Inc. agrees to pay all costs of the City relative to the issuance of the bonds. RAW also agrees to pay the City’s \$2,500 annual IRB administrative fee for the term of the bonds.

City Council has approved a 100% property tax abatement for five years, with a second five years subject to Council approval. Based on the 2007 mill levy, the estimated tax value of exempted property for the first full year is approximately \$73,781. The value of a 100% real property exemption applicable to taxing jurisdictions is:

City	\$ 19,987	State	\$ 938
County	\$ 19,583	USD 259	\$ 33,274

The cost/benefit analysis report from the fiscal and economic impact model of Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

City of Wichita	2.29 to one
Sedgwick County	1.68 to one
USD 259	1.20 to one
State of Kansas	8.31 to one

**Goal Impact:** Economic Vitality and Affordable Living. Providing low-cost financing and granting an ad valorem property tax exemption and sales tax exemption will encourage the creation of new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

**Legal Considerations:** The City's bond counsel has prepared documents required for issuance of the bonds. The City Attorney's Office will review and approve bond documents as to form prior to the issuance of any bonds.

**Recommendations/Actions:** It is recommended that City Council close the public hearing, place on first reading the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds in the amount of \$1,900,000 for RAW Investments, Inc., and authorize the necessary signatures.

**Attachments:** Bond Ordinance

**ORDINANCE NO. 48-109**

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES VIII, 2008 (RAW INVESTMENTS, INC.), IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,900,000 FOR THE PURPOSE OF CONSTRUCTING AND ACQUIRING A COMMERCIAL FACILITY; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

**WHEREAS**, the City of Wichita, Kansas (the “Issuer”), is authorized by K.S.A. 12-1740 *et seq.*, as amended (the “Act”), to acquire, construct, improve and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for such facilities, and to issue revenue bonds for the purpose of paying the costs of such facilities; and

**WHEREAS**, the Issuer has found and does find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its taxable industrial revenue bonds, Series VIII, 2008, in the aggregate principal amount of \$1,900,000 (the “2008 Bonds”), for the purpose of paying the costs of constructing and acquiring a commercial facility (the “Project”) as more fully described in the Indenture and in the Lease hereinafter authorized for lease by the Issuer to RAW Investments, Inc., a Kansas corporation (the “Tenant”); and

**WHEREAS**, the 2008 Bonds and the interest thereon shall not be a general obligation of the Issuer, shall not be payable in any manner by taxation and shall be payable solely from the trust estate established under the Indenture, including revenues from the Lease of the Project; and

**WHEREAS**, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of the 2008 Bonds to execute and deliver (i) a Trust Indenture dated as of November 1, 2008 (the “Indenture”), with The Bank of New York Mellon Trust Company, N.A., St. Louis, Missouri, as trustee (the “Trustee”), prescribing the terms and conditions of issuing and securing the 2008 Bonds; (ii) a Lease dated as of November 1, 2008 (the “Lease”), with the Tenant in consideration of payments of Basic Rent and other payments provided for therein, and (iii) an Administrative Service Fee Agreement between the Issuer and the Tenant (collectively, the “Bond Documents”); and

**WHEREAS**, the Tenant will sublease the Project to Cessna Aircraft Company; and;

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:**

**Section 1. Authority to Cause the Project to be Constructed and Acquired.** The Governing Body of the Issuer hereby declares that the Project, if in being, would promote the welfare of the City of Wichita, Kansas, and the Issuer is hereby authorized to cause the Project to be constructed and acquired all in the manner and as more particularly described in the Indenture and the Lease hereinafter authorized.

**Section 2. Authorization of and Security for the 2008 Bonds.** The Issuer is hereby authorized and directed to issue the 2008 Bonds, to be designated “City of Wichita, Kansas, Taxable Industrial Revenue Bonds, Series VIII, 2008 (RAW Investments, Inc.)” in the aggregate principal amount of \$1,900,000. The 2008 Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof,

and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Indenture. The 2008 Bonds shall be special limited obligations of the Issuer payable solely from the trust estate established under the Indenture, including revenues from the Lease of the Project. The 2008 Bonds shall not be general obligations of the Issuer, nor constitute a pledge of the full faith and credit of the Issuer and shall not be payable in any manner by taxation.

**Section 3. Lease of the Project.** The Issuer shall cause the Project to be leased to the Tenant pursuant to and in accordance with the provisions of the Lease in the form approved herein.

**Section 4. Execution of 2008 Bonds and Bond Documents.** The Mayor of the Issuer is hereby authorized and directed to execute the 2008 Bonds and deliver them to the Trustee for authentication on behalf of, and as the act and deed of the Issuer in the manner provided in the Indenture. The Mayor is further authorized and directed to execute and deliver the Bond Documents on behalf of, and as the act and deed of the Issuer in substantially the forms presented for review prior to final passage of this Ordinance, with such minor corrections or amendments thereto as the Mayor may approve, which approval shall be evidenced by his execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or any Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the 2008 Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer's official seal.

**Section 5. Pledge of the Project and Net Revenues.** The Issuer hereby pledges the Project and the net revenues generated under the Lease to the payment of the 2008 Bonds in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the 2008 Bonds shall be deemed to have been paid within the meaning of the Indenture.

**Section 6. Further Authority.** The officers, agents and employees of the Issuer are hereby authorized and directed to take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the 2008 Bonds and the Bond Documents as necessary to give effect to the transactions contemplated in this Ordinance and in the Bond Documents.

**Section 7. Effective Date.** This Ordinance shall take effect from and after its final passage by the Governing Body of the Issuer, signature by the Mayor and publication once in the official newspaper of the Issuer.

**PASSED** by the Governing Body of the City of Wichita, Kansas, and approved by the Mayor on November 4, 2008.

CITY OF WICHITA, KANSAS

(Seal)

By \_\_\_\_\_  
Carl Brewer, Mayor

Attest:

By \_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

By \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney





# **Economic Development Incentive Agreement**

**THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT** (the “Agreement”) is made and entered into on this \_\_\_\_ day of November, 2008, by and between the City of Wichita, Kansas, hereinafter referred to as the “City,” and Rand Graphics, Inc. hereinafter referred to as the “Company.”

**WHEREAS**, the Company currently operates a facility in Wichita, Kansas, for manufacturing graphic arts and commercial print and screen products, and, as of December 31, 2008 has completed a relocation by constructing and equipping an expansion of the facility and acquiring and modifying existing structures at that facility; and

**WHEREAS**, both the City and the Company desire for the Company to continue operating its business in Wichita, Kansas; and

**WHEREAS**, the City desires to increase employment opportunities for the citizens of Wichita, Kansas, and to further the other goals advanced by its economic development incentive policy; and

**WHEREAS**, the Company warrants that it is capable of, and desires to, increase the number of employment positions at its Wichita, Kansas facility; and

**WHEREAS**, the City has designed an economic development incentive program to accomplish its goal of increasing employment opportunities in Wichita, Kansas; and

**WHEREAS**, the purpose of this Agreement is to state the terms and conditions under which the City will cooperate in furnishing said economic development incentives.

**NOW, THEREFORE**, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **THE COMPANY.** The Company agrees (to the extent not already hitherto performed) that it shall do the following:
  - A. Between May 11, 2007 and December 31, 2008, the Company will have completed the construction of a building addition and the acquisition and installation of manufacturing equipment at its manufacturing facility, located at 2820 South Hoover Road, Wichita, Kansas, at a cost of \$5,266,250, to be used exclusively for the purposes of manufacturing articles of commerce;
  - B. Maintain, throughout the period from the date of this Agreement to May 11, 2012, employment of not less than two-hundred fourteen (214) employees at such manufacturing facility;

- C. On or prior to May 11, 2012, the Company will add an additional six (6) new jobs at such manufacturing facility, and thereafter, add fifteen (15) additional jobs and maintain employment of not less than two-hundred twenty-nine (229) employees at such manufacturing facility, through at least December 31, 2018;
- D. During the entire term of this Agreement, the Company will continuously maintain the average wage paid to its employees at a level (1) equal to or greater than the average wage paid by businesses in the Wichita Metropolitan Statistical Area with the Company's NAICS classification, or alternatively, (2) greater than the average wage for all jobs in the Wichita Metropolitan Statistical Area excluding wages paid by businesses classified in NAICS Sector 336;
- E. During the entire term of this Agreement, the Company will meet any Equal Employment Opportunity/Affirmative Action goals set forth in its periodic filings with the City, and will annually file its Equal Employment Opportunity/Affirmative Action Plan with the City;
- F. During the entire term of this Agreement, the Company will timely pay all *ad valorem* property taxes levied on its real or personal property within Sedgwick County, Kansas;
- G. During the entire term of this Agreement, the Company will ensure that it does not discriminate or permit discrimination against any person on the basis of race, color, national origin or ancestry, religion, sex, age, disability or marital status in its operations or services, and the Company will comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, *et seq.*; the Code of the City of Wichita Section 2.12.950; and, any laws, amendments or regulations promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity;
- H. During the entire term of this Agreement, the Company will comply with all applicable governmental laws, rules and regulations; and,
- I. During the entire term of this Agreement, the Company will cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with conditions, including any annual reports required

of the Company and any inspection of the Company's premises or interviews with the Company's staff.

2. **EFFECT OF COMPANY'S BREACH; REMEDIES.** The Company acknowledges that in the event of its noncompliance with any of its obligations or agreements under the foregoing Section 1, the City will not have received the social and economic development benefits expected in connection with its entry into this Agreement and its furnishing of the economic development incentives provided for hereunder, and the resulting loss to the City will be difficult to measure. In such event, Company shall be required to pay to the City, as liquidated damages, or as a payment in lieu of tax, an amount equal to the *ad valorem* taxes that would theretofore have been payable but for the tax exemption referred to in Section 3 of this Agreement, and the City shall be entitled to take action to cancel and revoke such exemption for any subsequent period. No delay or omission by the City to enforce any of its rights as provided for herein shall impair such right, nor shall any such delay or omission be construed to be a waiver of such right.
3. **THE CITY.** So long as the Company meets and performs its obligations under this Agreement, it is the City's intention that the 65,000 square foot building constructed by the Company pursuant to Section 1.A., above, shall be entitled to a 85% exemption from *ad valorem* taxation for a period of five (5) calendar years, commencing January 1, 2009, and provided proper application is made therefore. It is the City's further intention that the building expansion shall be entitled to a 85% exemption from *ad valorem* taxation for an additional period of five years from January 1, 2014 to December 31, 2018, subject to the approval, in 2013, of the then current governing body. The City agrees that, during the term of this Agreement, and so long as the Company continues to meet and perform all of its obligations under this Agreement, the City will reasonably cooperate with the Company's efforts to perfect the intended exemption before the Kansas Board of Tax Appeals, and to make all necessary annual filings required to maintain such *ad valorem* tax exemption in full force and effect during the term of this Agreement, in accordance with K.S.A. 79-210 *et seq.*
4. **TERM.** This Agreement shall commence on the date first written above, and shall end on December 31, 2018.
5. **INCORPORATION OF APPENDIX.** Appendix A (Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements) is attached hereto and made a part hereof as if fully set out herein.
6. **ENTIRE AGREEMENT.** This Agreement and any Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement

shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In the event of a conflict between the terms of this Agreement and the terms contained in an Appendix, Statement of Work or other attachment, the terms of this Agreement will control.

7. **NOTIFICATION.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

City: Office of Economic Development  
Attn: Economic Development Administrator  
455 North Main, 12<sup>th</sup> Floor  
Wichita, Kansas 67202

and

Department of Law  
Attn: City Attorney  
455 North Main, 13<sup>th</sup> Floor  
Wichita, Kansas 67202

Company: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Wichita, Kansas 672\_\_

8. **AUTHORITY.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

ATTEST:

\_\_\_\_\_  
Carl Brewer, Mayor

\_\_\_\_\_  
Karen Sublett, City Clerk

RAND GRAPHICS, INC.

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary Rebenstorf  
Director of Law

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **APPENDIX A**

### **REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
  4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
  5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing and Property Tax Exemption Request (Rand Graphics, Inc.)  
(District IV)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Approve the exemption.

**Background:** Rand Graphics (“Rand”) was established in 1966 and has experienced significant growth since its inception. Rand is a graphic arts and commercial print and screen product manufacturer. Rand’s services involve high-tech, state of the art equipment run by a highly trained and sophisticated workforce. Rand provides unique services that have allowed them to become a national leader in the printing industry. Rand exports approximately 80% of their products outside the Wichita area to a number of clients including YUM Brands, Anheuser-Busch, Subway and Wal-Mart.

Since 1995, the City of Wichita has issued approximately \$14,600,000 in Industrial Revenue Bonds for Rand Graphics. Rand has also received multiple real and personal property tax exemptions in conjunction with the bond issues. Rand has recently completed a 65,000 sf expansion of the facility at 2820 South Hoover. The project was not financed through IRBs; therefore Rand is requesting exemption on the real property improvements under the Economic Development Exemption (EDX) program.

**Analysis:** Rand Graphics works with a number of regional and national clients on high-quality graphic and print material products. They have operated in Wichita for over forty years and have established a high-quality reputation. The company supports a number of major national clients and continues to exhibit steady growth and expansion.

Rand recently completed a 65,000 sf expansion of the existing production facility. The expansion allowed the company to create greater efficiencies in the production line and add additional machinery and equipment. It also expanded the fulfillment capabilities now requested by many of their clients.

Rand currently has 208 employees in Wichita; the company plans to add at least 6 new jobs over the next five years, for a total local employment of 214 by 2013 and 21 new jobs over ten years for a total employment of 229 by 2018. Should Rand not reach 229 employees in 2018, an amount equal to the taxes that would have been paid in the second five years will be required.

The expansion project is itemized in Exhibit I attached hereto. Under the Economic Development Incentive Policy, Rand Graphics is eligible for the following property tax abatement:

**TAX EXEMPTION ELIGIBILITY**

41%	New Job Creation: Rand will create at least 21 new jobs over ten years
<u>43.75%</u>	Capital Investment: Rand will invest at least \$5,266,250
<b>84.75%</b>	<b><i>Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)</i></b>



00.0%                      Location Premium:                      Rand Graphics is not located in the central redevelopment area.

**84.75%                      TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY**

Under the Economic Development Incentive Policy, Rand Graphics is eligible for an 84.75% tax exemption on the identified real property for a five-year term, plus an 84.75% tax exemption for a second five-year term, subject to City Council approval. Staff recommends an 85% property tax abatement. A notice of public hearing has been published. Rand Graphics has agreed to comply with the conditions set forth in the attached Economic Development Incentive Agreement.

**Financial Considerations:** The estimated first year real property taxes on the \$2,236,951 building expansion would be \$66,018, based on the 2007 mill levy. Using the allowable tax exemption of 85%, the City would be exempting (for the first year) approximately \$56,610 of new taxes from the real property tax rolls. The tax exemption forgone for each taxing jurisdiction is as follows: City - \$15,335; County/State - \$15,745; and USD 259 - \$25,530.

Wichita State University's Center for Economic Development and Business Research performed a cost-benefit analysis indicating benefit-to-cost ratios, which are as follows:

City of Wichita	1.37 to one
Sedgwick County	1.29 to one
USD 265	1.25 to one
State of Kansas	2.39 to one

**Goal Impact:** Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

**Legal Considerations:** The City Attorney's Office has approved the attached Ordinance and Economic Development Incentive Agreement as to form.

**Recommendations/Actions:** It is recommended that City Council close the public hearing, and approve first reading of the Ordinance granting Rand Graphics an 85% tax exemption on the identified real property improvements for a five year term, plus an 85% tax exemption for a second five-year term, subject to City Council review.

**Attachments:** Ordinance, Economic Development Incentive Agreement

ORDINANCE NO. 48-113

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF RAND GRAPHICS, INC., SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Rand Graphics, Inc., requests an ad valorem tax exemption on a proposed expansion project of 85% for a five-year term plus an additional five-year term subject to City Council review on the construction of a building expansion; and

WHEREAS, Rand Graphics, Inc., has operated within the City for more than forty years as a growing national provider of custom graphic and commercial print product manufacturer; and

WHEREAS, Rand Graphics, Inc., proposes a \$5,266,250 expansion by the construction of a new building expansion located at 2820 South Hoover Road in southwest Wichita and purchase of new machinery and equipment for the facility; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by Rand Graphics, Inc., has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on November 4, 2008; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. Rand Graphics, Inc. is an existing business located in Wichita, Kansas, and intends to expand its business by construction of a building expansion.

2. The construction of the expansion for which exemption is given occurred after May 11, 2007. No exemption will be given for construction which occurred before that date.

3. Such construction is to be used exclusively for manufacturing articles of commerce.

4. By such expansion, Rand Graphics, Inc. will create new employment for 6 employees within five years after the start of the project.

5. Tax exemption will be given only for the construction of a building expansion as reflected in Exhibit I attached hereto.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS,

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by Rand Graphics, Inc. is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing articles of commerce.

2. Rand Graphics, Inc. is hereby granted an ad valorem tax exemption of 85% for a five-year term on the construction of a building expansion and 85% for a second five years, located within the Wichita City limits at 2820 South Hoover Road in southwest Wichita, at an estimated cost of \$5,250,266, as further defined in Exhibit I attached hereto. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and Rand Graphics, Inc. may be required to repay amounts previously abated), in the event of any failure by Rand Graphics, Inc., to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and Rand Graphics, Inc. is hereby approved.

4. The Office of Urban Development shall be responsible for monitoring the performance of Rand Graphics, Inc. and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in Rand Graphics, Inc.'s written request for ad valorem tax exemptions as presented to the City Council and to administrative staff and dated June 10, 2008 and as stated in Rand Graphics, Inc.'s annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Rand Graphics, Inc. no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which Rand Graphics, Inc. has executed with the City.

7. The City Council may, at its discretion, require Rand Graphics, Inc. to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which Rand Graphics, Inc. has executed with the City.

8. Upon finding that Rand Graphics, Inc. has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on Rand Graphics, Inc.'s expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this \_\_\_\_ day of November, 2008.

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** Extension of IRB Tax Exemption (Rand Graphics, Inc.) (District IV)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Approve a one year extension.

**Background:** On November 18, 2003, City Council approved issuance of Industrial Revenue Bonds in the amount of \$2 million to Rand Graphics, Inc. In conjunction with the bond issue, City Council approved a 100% property tax abatement for a 5-year term on the project, plus a second 5 years subject to Council review. Bond proceeds were used to pay the costs of purchasing and installing additional machinery and equipment to be located at Rand's two printing plants at 2820 South Hoover and 500 South Florence. On December 31, 2008, the initial five-year period for tax exemption will expire. Rand Graphics, Inc. requests City Council extend the tax exemption to include the second five years on bond-financed real property.

**Analysis:** Rand is a graphics arts and commercial print and screen products manufacturing company. Rand offers full creation and production and fulfillment services to its customers as well as complete finishing operations. Much of the growth has come from its screen printing division. Rand exports approximately 80% of their products outside the Wichita area to a number of clients including YUM Brands, Anheuser-Busch, Subway and Wal-Mart.

As a condition of the bond issue and tax exemption, Rand committed to: purchasing and installing additional machinery and equipment totaling \$2,000,000; and to create 32 new jobs within five years of the bond issue. Tax exemption on personal property financed with IRBs is allowed up to 10 years of abatement from taxes. A measure of Rand's initial five-year project commitments and outcomes are as follows:

**2003 Commitment**

Purchase \$2 million in machinery and equipment  
Create 32 new jobs in five years:

**December 31, 2008 Status**

Purchased machinery and equipment  
Created 14 new jobs

Staff conducted a site-monitoring visit on July 24, 2008. Rand Graphics has made the investment in the new machinery and equipment, however, the increase in technology in the printing industry and recent economic pressures has caused them to create fewer jobs than anticipated since 2003. Rand has also lost employees recently due to the recent economic crisis. Rand continues to plan for diversification of services and client base to remain competitive and continue expanding.

**Financial Considerations:** In 2007, Rand Graphic paid approximately \$64,932 in real and personal property taxes. The appraised value of exempted property is currently \$2,764,430. Rand Graphics is current in payments of administrative service fees.

New benefit-to-cost ratios are as follow:

City of Wichita	12.08 to one
Sedgwick County	9.33 to one
USD 259	NA
State of Kansas	NA

**Goal Impact:** Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

**Legal Considerations:** Section 7.5 of the lease provides the City Council reserves the right to terminate the exemption at the end of the first five-year period. Each year, the City must re-certify to the County Clerk that the exempted property is still eligible in order to continue the property tax exemption for that year. This allows the City Council to review non-complying companies each year and revisit the decision to extend the exemption.

**Recommendations/Actions:** It is recommended that the City Council extend the tax exemption on Rand Graphics, Inc.'s IRB Bond-financed property for a one-year period and review further extension at the end of year 2009.

**Attachments:** None

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** Request for Letter of Intent for Industrial Revenue Bonds (Pawnee Industrial, LLC.) (District IV)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Close public hearing and approve Letter of Intent to issue Industrial Revenue Bonds.

The City has received an application for a Letter of Intent to issue Industrial Revenue Bonds (“IRBs”) for Pawnee Industrial, LLC, a joint development venture by Steve Barrett and Herbert Krumsick. The bonds will be used to finance the construction of a manufacturing and warehouse facility located at Pawnee and Custer in Southwest Wichita.

Pawnee Industrial, LLC is requesting the issuance of a six-month letter of intent for IRBs in an amount not to exceed \$4,500,000. Pawnee Industrial, LLC is also requesting the City Council’s approval of a 100% five-plus-five year tax exemption on the IRB-financed real property improvements with the second five years exemption subject to City Council approval.

**Analysis:** Bond proceeds will be used to finance the costs of constructing a 143,000 sf speculative manufacturing and warehouse facility located at 3002 W. Pawnee. The facility will provide dock and bay doors for access and is being built to the Leadership in Energy and Environmental Design (LEED) standards. Pawnee Industrial, LLC plans to lease the facility to one or more users depending on space requirements of potential tenants. Pawnee Industrial, LLC anticipates the addition of 35 new jobs with a minimum average wage of \$29,786 annually as a result of the project.

The Wichita area has continually experienced a shortage of speculative space in the industrial real estate market. The construction of this facility will significantly increase the inventory of available manufacturing and warehouse space. Industrial space that is immediately available is a critical decision factor for many companies with expansion and/or relocation plans.

The current Economic Development Incentive Policy which governs all incentives offered by the City of Wichita and Sedgwick County was adopted in 2004. The policy in place prior to 2004 allowed for property tax abatement on speculative buildings; however the current policy is silent on the qualification of speculative buildings for property tax abatement. On August 5, 2008, City Council approved a Letter of Intent and real property tax abatement for a speculative warehouse project on Hoover Road.

The City’s contract bond counsel firm, Kutak Rock LLP, will serve as bond counsel in the transaction. Pawnee Industrial, LLC agrees to comply with the City’s Standard Letter of Intent Conditions. Pawnee Industrial, LLC will be exempted from the condition that they publish the project for contractors to submit qualifications as the building is already under construction. The contractor serving on the project currently is Crossland Construction, a minority and woman-owned business based in Columbus, KS. The City’s Letter of Intent Conditions also require a water conservation plan. This will be addressed through a copy of the LEED certification as it is consistent with water conservation goals of the City. EEO/AA requirements will be required of the potential tenants by Pawnee Industrial, LLC.

**Financial Considerations:** Pawnee Industrial, LLC agrees to pay all costs of the City relative to the issuance of the bonds. The company also agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds.

Based on the current property tax abatement matrix, the Company qualifies for a 99.5% five-plus-five-year tax exemption on real property constructed with bond proceeds. Staff is recommending a 100% exemption.

<b><u>% Eligible</u></b>	<b><u>Condition</u></b>	<b><u>Commitment</u></b>
53.0%	New Job Creation	35 FTE; avg. wage - \$29,786/yr.
46.5%	Capital Investment	\$6,000,000
99.5%	Total Business Incentive Eligibility (Maximum allowed is 100%)	

Based on the 2007 mill levy, the estimated tax value of exempted property for the first full year is approximately \$177,075. The value of a 100% real property tax exemption as applicable to taxing jurisdictions is:

City	\$ 47,969	State	\$ 2,250
County	\$ 47,000	USD 259	\$ 79,857

Approval of the second five-year abatement period will be subject to compliance with job creation and average wage commitment, capital investment commitment and a requirement that at least 51% of exports are stored/shipped to end-users outside the Wichita MSA as required by the current incentive policy.

The project will not qualify for a sales tax exemption on bond-financed purchases.

The cost/benefit analysis report completed using the fiscal and economic impact model of Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

City of Wichita	2.41 to one
Sedgwick County	1.75 to one
USD 259	1.24 to one
State of Kansas	3.36 to one

**Goal Impact:** Economic Vitality and Affordable Living. Providing low-cost financing and granting an ad valorem property tax exemption and sales tax exemption will encourage the creation of new job opportunities and enhance the industrial real estate inventory for the City of Wichita and Sedgwick County.

**Legal Considerations:** Bond documents required for the issuance of the bonds will be prepared by bond counsel. The City Attorney's Office will review and approve as to form bond documents prior to the issuance of bonds.

**Recommendations/Actions:** It is recommended that City Council close the public hearing and approve a one-year Letter of Intent to issue Industrial Revenue Bonds to Pawnee Industrial, LLC in an amount not-to-exceed \$4,500,000, subject to Letter of Intent conditions and approve a 100% tax abatement on all bond-financed real property for an initial five-year period plus an additional five years pending City Council review and approval.

**Attachments:** Letter of Intent Application

**City of Wichita  
City Council Meeting  
November 4, 2008**

**TO:** Mayor and City Council

**SUBJECT:** Request for Letter of Intent for Industrial Revenue Bonds (Atlas Aerospace, LLC dba Product Manufacturing Company) (District IV)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

**Recommendation:** Close public hearing and approve Letter of Intent to issue Industrial Revenue Bonds.

**Background:** The City has received an application for a Letter of Intent to issue Industrial Revenue Bonds (“IRBs”) for Atlas Aerospace, LLC dba Product Manufacturing Company (“Atlas/PMC”). The bonds will be used to finance the expansion of the manufacturing facilities located in Southwest Wichita.

Atlas/PMC is requesting the issuance of a one-year letter of intent for IRBs in an amount not to exceed \$9,000,000. Atlas/PMC is also requesting a 100% five-year tax exemption on the IRB-financed real property improvements plus a second five-year exemption subject to City Council approval.

**Analysis:** Atlas/PMC performs machining, fabricating and assembly of a broad range of aluminum, steel, titanium and exotic metal parts for aerospace and defense industries. The company has certifications from many of its clients and serves companies such as Boeing, Spirit, Hawker Beechcraft, Cessna and the US Navy. The company makes continued investment in machinery and equipment to meet requirements for complex parts. Atlas/PMC has exhibited strong growth in recent years and plans to continue expanding in the future. Bond proceeds will be used to finance the recent expansions in 2007 and 2008. The company completed an 83,000 sf expansion and an 80,000 sf expansion in 2007; a 50,000 sf expansion was recently completed this year. The 2008 expansion will add 65 new jobs over the next 5 years at an average wage of \$42,664.

	<u>Use of Funds</u>
Building Costs	\$ 8,550,000
Cost of Issuance	\$ 150,000
<u>Contingency</u>	<u>\$ 300,000</u>
Total	\$ 9,000,000

Product Manufacturing Company (“PMC”) was purchased in 2007 by Atlas Aerospace, LLC. The sellers, Jennifer and Chris Lette retained ownership of the real estate and entered in to a lease agreement for the facilities with Atlas/PMC. In 2006, PMC filed a letter of intent with the City to use the Economic Development Exemption (“EDX”) program for their planned expansions. When the company was purchased and entered into a lease with the Lettes, this disqualified the company for use of EDX as the property owner does not maintain 51% ownership in the company. Kutak Rock, the City’s bond counsel, has advised that Atlas/PMC can use IRBs to finance the expansions and receive property tax abatement.

The City’s contract bond counsel firm, Kutak Rock LLP, will serve as bond counsel in the transaction. Atlas/PMC agrees to comply with the City’s Standard Letter of Intent Conditions.



**Financial Considerations:** Atlas/PMC agrees to pay all costs of the City relative to the issuance of the bonds. The company also agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds.

Based on the City/County Economic Development Incentive Policy, the Company qualifies for a 100% five-plus-five-year tax exemption on real property constructed with bond proceeds.

<u>% Eligible</u>	<u>Condition</u>	<u>Commitment</u>
98.9%	New Job Creation	65 FTE @ \$42,664/yr
49.6%	Capital Investment	\$8,500,000
148.5%	Total Business Incentive Eligibility (Maximum allowed is 100%)	

Based on the 2007 mill levy, the estimated tax value of exempted property for the first full year is approximately \$250,856. The value of a 100% real property tax exemption as applicable to taxing jurisdictions is:

City	\$ 67,955	State	\$ 3,188
County	\$ 66,583	USD 259	\$ 113,131

The project will not qualify for a sales tax exemption on bond-financed purchases as construction is already complete.

The cost/benefit analysis report completed using the fiscal and economic impact model of Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

City of Wichita	1.38 to one
Sedgwick County	1.18 to one
USD 259	1.11 to one
State of Kansas	4.48 to one

**Goal Impact:** Economic Vitality and Affordable Living. Providing low-cost financing and granting an ad valorem property tax exemption will encourage the creation of new job opportunities in the City of Wichita and Sedgwick County.

**Legal Considerations:** Bond documents required for the issuance of the bonds will be prepared by bond counsel. The City Attorney's Office will review and approve as to form bond documents prior to the issuance of bonds.

**Recommendations/Actions:** It is recommended that City Council close the public hearing and approve a one-year Letter of Intent to issue Industrial Revenue Bonds to Atlas Aerospace dba Product Manufacturing Corporation in an amount not-to-exceed \$9,000,000, subject to standard Letter of Intent conditions; and approve a 100% tax abatement on all bond-financed real property for an initial five-year period plus an additional five years pending City Council review and approval.

**Attachments:** Letter of Intent Application

**City of Wichita  
City Council Meeting  
November 4, 2008**

**TO:** Mayor and City Council

**SUBJECT:** Resolution Considering the Adoption of a Redevelopment Project Plan (Tax Increment Financing), Ken Mar Redevelopment District (District I)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendations:** Adopt the Resolution.

**Background:** On August 19, 2008, the City Council adopted an ordinance establishing a redevelopment district in the area northwest of 13<sup>th</sup> and Oliver for the purpose of providing tax increment financing (TIF) to pay a portion of the costs of a redevelopment project in that area. The next step in establishing the legal authority to use tax increment financing is the adoption by the City Council of a redevelopment project plan, which provides more detailed information on the proposed project and how tax increment financing would be used, and demonstrates how the projected increase in property tax revenue will amortize the costs financed with tax increment financing.

Similar to the process for establishing the TIF district, adoption of the TIF project plan also requires a public hearing to be held by the City Council, following the giving of proper notice, prior to adopting an ordinance that approves the project plan. The action needed to set the public hearing is by adoption of a resolution.

**Analysis:** The developer has presented the details of a redevelopment project in the Ken Mar area, which is referred to as the Ken Mar Center Project. A Project Plan has been prepared in consultation with the Wichita-Sedgwick County Metropolitan Planning Commission, which has made a finding that the project is consistent with the Comprehensive Plan for development of the area. The date of January 6, 2009 at the regular City Council meeting is proposed for the public hearing on the Ken Mar Center Project Plan.

If adopted by the City Council, the attached resolution calling for the public hearing will be sent to the owners and occupants of all property located within the Ken Mar Redevelopment District, by certified mail. The resolution includes a map that shows the boundaries of the redevelopment district. The resolution will also be published in the *Wichita Eagle* and copies will be provided to the Board of County Commissioners and Board of Education.

After closing the public hearing, the City Council may adopt the Project Plan by ordinance, by two-thirds majority vote. Once adopted, the City will be authorized to use tax increment financing to finance eligible project costs. However, any expenditure of public funds on any project costs will be governed by the terms of a development agreement to be approved by the City Council, and all other necessary proceedings governing the expenditure of public funds.

**Financial Considerations:** All costs of reproducing, mailing and publishing the resolution will be paid from the City's Economic Development Fund and will be ultimately reimbursed from the proceeds of tax increment financing.

**Goal Impact:** Economic Vitality and Affordable Living and Quality of Life. Redevelopment of blighted and declining areas is needed to avoid economic stagnation. Business prospects and workers seeking to relocate are attracted to a city that takes care of its older sections.

**Legal Considerations:** The attached Resolution has been reviewed by the Department of Law and approved as to form.

**Recommendation/Action:** It is recommended that the City Council adopt the resolution and authorize the necessary signatures.

**Attachment(s):** Resolution Considering the Adoption of a Redevelopment Plan (Tax Increment Financing), Ken Mar Redevelopment District

Published in the Wichita Eagle on December 27, 2008

Resolution No. 08-507

**A RESOLUTION STATING THE CITY OF WICHITA IS CONSIDERING  
THE ADOPTION OF A REDEVELOPMENT PROJECT PLAN FOR THE  
KEN MAR REDEVELOPMENT DISTRICT.**

WHEREAS, by Ordinance No. 47-954 adopted August 19, 2008, and published August 22, 2008, the City of Wichita established a redevelopment district pursuant to K.S.A. 12-1770 et seq., as amended, known as the Ken Mar Redevelopment District; and

WHEREAS, the City, by Resolution No. 08-352 passed July 8<sup>th</sup>, 2008, adopted a redevelopment district plan which identifies proposed redevelopment areas and proposed buildings and facilities to be constructed or improved; and

WHEREAS, the City of Wichita proposes to undertake a Redevelopment Project within the Ken Mar. Redevelopment District, known as Ken Mar Center, consisting of a full remodel and update of the two larger retail structures including new facades, the development of up to four out-parcels for commercial space and related public improvements as set out in the Redevelopment Project Plan; and

WHEREAS, the City has prepared a Redevelopment Project Plan for said Project in accordance with K.S.A. 12-1772 and is considering the adopting of the Plan; and

WHEREAS, a relocation assistance plan under K.S.A. 12-1777 is included in the Redevelopment Project Plan; and

WHEREAS, the Wichita Sedgwick County Metropolitan Area Planning Commission has reviewed the proposed Redevelopment Project Plan and determined that the Redevelopment Project Plan is consistent with the comprehensive general plan for the development of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

1. The City of Wichita is considering the adoption of a Redevelopment Project Plan for the Ken Mar Redevelopment District.

2. The City of Wichita will hold a public hearing to consider the adoption of the Redevelopment Project Plan on the 6<sup>th</sup> day of January, 2009, at 9:00 a.m., or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas.

3. The Redevelopment Project will be located within the Ken Mar Redevelopment District, the boundaries of which are set forth in Exhibit "A" attached hereto. The boundaries of the area proposed to be included in the Redevelopment Project area are also set forth in Exhibit "A" attached hereto.

4. The Ken Mar Center Redevelopment Project Plan and a map of the area to be redeveloped are available for inspection during the regular office hours in the office of the City Clerk, City Hall, 13th Floor, 455 N. Main, Wichita, Kansas. The Redevelopment Project Plan includes the feasibility study, comprehensive plan, maps and boundary descriptions, descriptions of the public improvement projects, and other information pertinent to the project.

5. The governing body will consider making findings and taking action necessary for the adoption of the Redevelopment Project Plan at the public hearing set to be heard herein.

6. It is determined and notice is hereby given that the City may issue full faith and credit tax increment bonds pursuant to K.S.A. 12-1774, as amended, to finance the Redevelopment Project, in whole or in part.

7. A copy of this Resolution shall be delivered to the Sedgwick County Board of County Commissioners and to the Board of Education of Unified School District No. 259. Copies of this Resolution shall also be mailed by certified mail to each owner and occupant of land within the proposed redevelopment project area not more than ten (10) days following the date of adoption of this Resolution.

8. This Resolution shall be published once in the official City newspaper not less than one week or more than two weeks preceding the date fixed for the public hearing. Such publication shall include Exhibit "A" which is a sketch clearly delineating the area in sufficient detail to advise the reader of the particular land proposed to be included within the project area.

ADOPTED this 4<sup>th</sup> day of November, 2008.

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary Rebenstorf, City Attorney

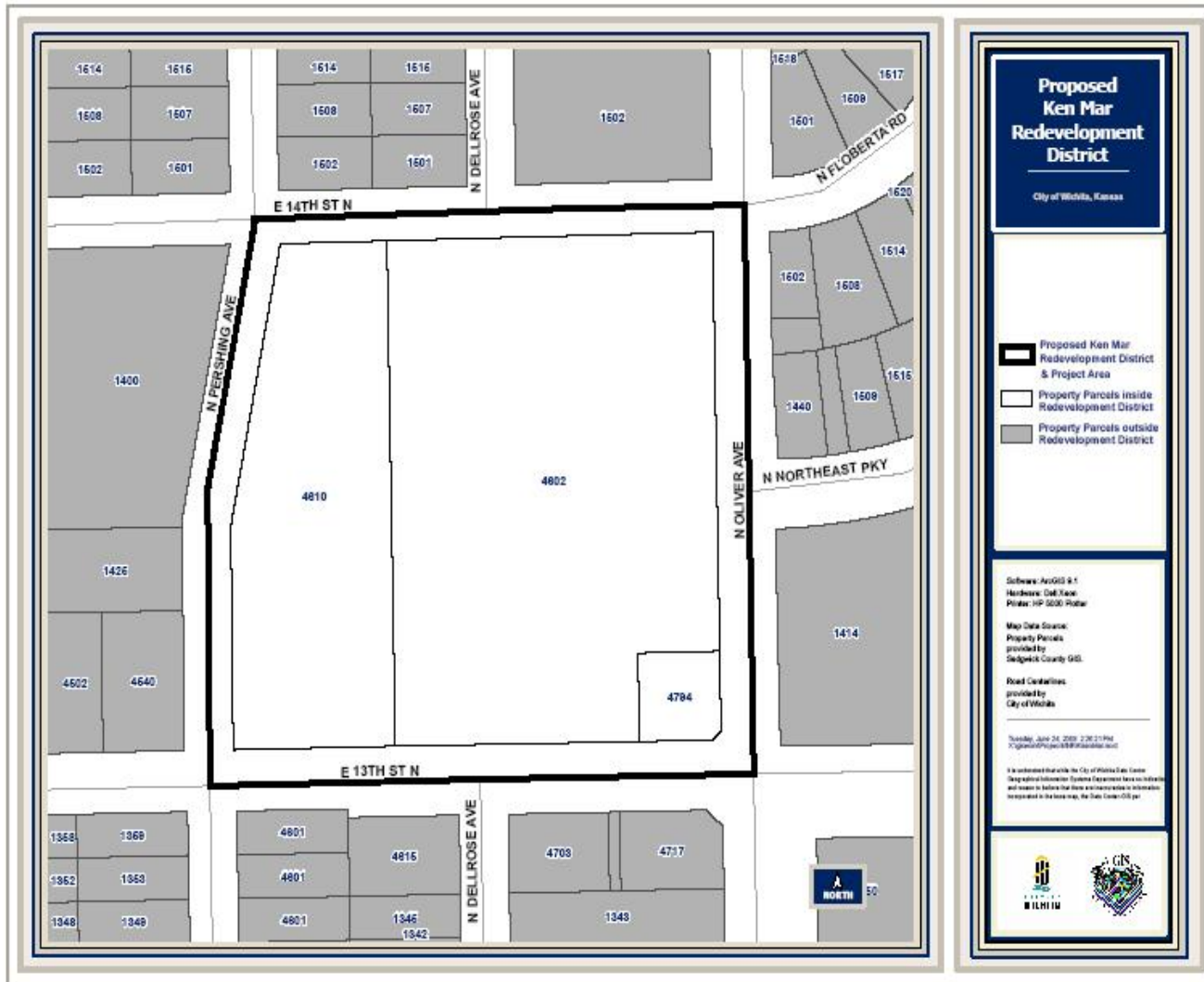


EXHIBIT "A"

## EXHIBIT A

### **Ken Mar Redevelopment District**

#### LEGAL DESCRIPTION OF PROPOSED KEN MAR CENTER PROJECT AREA

All property parcels located between the center line of 13th Street North on the south, the north right of way line of 14th Street North on the north, the center line of Oliver Avenue on the east and the west right of way line of Pershing Avenue on the west, in Wichita, Sedgwick County, Kansas; and including all street rights of way within such described areas.

**City of Wichita  
City Council Meeting  
November 4, 2008**

**TO:** Mayor and City Council Members

**SUBJECT:** Public Hearing on Proposed Assessment for, One (1) Sewer Project, One (1) Water Project and One (1) Storm Water Project in the February 2009 Bond Sale Series 796 (Districts V and VI)

**INITIATED BY:** Department of Public Works

**AGENDA:** New Business

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**Recommendation:** Approve the proposed assessments and ordinances.

**Background:** The City Council was notified on September 16, 2008 that the proposed assessment rolls were on file for public inspection in the Department of Finance.

**Analysis:** Notice of hearing letters were published September 19, 2008 in the Wichita Eagle being not less than ten days prior to the date of hearing.

**Financial Considerations:** Statements of Special Assessment will be mailed to the property owners on November 7, 2008. The property owners have until November 24, 2008 to pay their assessment and avoid paying interest. The assessments not paid during this period will be in the February 2009 Bond Sale. The interest added to the principal amount will be determined by the rate at which the bonds sell. The principal and interest will then be spread and placed on the 2009 tax roll.

**Goal Impact:** The City of Wichita aggressively uses special assessments to lower the cost of residential developments. In doing so, the City's program satisfies the City Council's goal to promote Economic Vitality and Affordable Living. The program supports this goal through partnering with stakeholders in the development community and sustains affordable living by lowering the costs of home ownership.

**Legal Considerations:** These projects were initiated pursuant to provisions of KSA 12-6a01 et seq. as amended. All of the projects were 100% petitioned.

**Recommendation/Action:** This is an amended version of the early ordinances, which were never published. It is recommended that the City Council close the Public Hearing, approve the proposed assessments and find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond and Note Ordinances on the date of their introduction.

**Attachment:** Special Assessment project list;  
Declaration of Emergency (3)



## HEARING ON PROPOSED ASSESSMENTS FOR CONSTRUCTION OF SEWER PROJECT:

On September 16, 2008 the Council was notified that the Proposed Assessment Roll for construction of the following sewer project has been prepared and was on file in the office of Debt Management in the Finance Department for public inspection:

### WATER PROJECT:

- a.. (470-040/448-90225) Construction of Water Distribution System No. 448-90225 TO SERVE AVALON PARK 3RD & 4TH ADDITIONS, East of Tyler, North of 37th Street North, as authorized by Resolution No. 06-448, adopted August 22, 2006, and published August 25, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 7/15/2008 in the amount of \$86,900.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District V)

### SEWER PROJECT:

- b. (480-925/468-84216) Construction of LATERAL 26, MAIN 19, SOUTHWEST INTERCEPTOR SEWER, East of Tyler, North of 37th Street North, as authorized by Resolution No. 06-449 rescinded by Res. 07-318, adopted August 22, 2006 & June 5, 2007, and published August 25, 2006 & June 7, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 15, 2008 in the amount of \$328,700 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis.(District V)

### STORM WATER PROJECT

- c. (485-336/468-84253) Construction of SWD NO. 307, TO SERVE NORTHGATE ADDITION AND UNPLATTED TRACT B, North of 53rd Street North, West of Meridian, as authorized by Resolution No. 06-567, rescinded by 07-163, adopted October 24, 2006, March 13, 2007, and published October 26, 2006, March 16, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved 7/15/2008, in the amount of \$511,500.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. (District VI)

## REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, November 4, 2008, of an ordinance entitled:

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING **WATER DISTRIBUTION SYSTEM NO. 448-90225, TO SERVE AVALON PARK 3RD & 4TH ADDITIONS, East of Tyler, North of 37th Street North (448-90225/470-040).**

The general nature of such emergency is to enable the City to deliver final Statements of Assessment to the property owners included in the above described improvement district on November 7, 2008.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on this 4th day of November, 2008.

(Seal)  
ATTEST:

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CARL BREWER, Mayor

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KAREN SUBLETT, City Clerk

## REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, November 4, 2008, of an ordinance entitled:

**AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING LATERAL 26, MAIN 19, SOUTHWEST INTERCEPTOR SEWER TO SERVE AVALON PARK 3RD & 4TH ADDITIONS, East of Tyler, North of 37th Street North (468-84216/480-925).**

The general nature of such emergency is to enable the City to deliver final Statements of Assessment to the property owners included in the above described improvement district on November 7, 2008.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on this 4th day of November, 2008.

(Seal)

ATTEST:

\_\_\_\_\_  
CARL BREWER, Mayor

\_\_\_\_\_  
KAREN SUBLETT, City Clerk

## REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, November 4, 2008, of an ordinance entitled:

**AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF SWD NO. 307, TO SERVE NORTHGATE ADDITION AND UNPLATTED TRACT B, North of 53rd Street North, West of Meridian (468-84253/485-336).**

The general nature of such emergency is to enable the City to deliver final Statements of Assessment to the property owners included in the above described improvement district on November 7, 2008.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on this 4th day of November, 2008.

(Seal)

ATTEST:

\_\_\_\_\_  
CARL BREWER, Mayor

\_\_\_\_\_  
KAREN SUBLETT, City Clerk

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** Quarterly Financial Report for the quarter ending September 30, 2008

**INITIATED BY:** Department of Finance

**AGENDA:** New Business Agenda

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**Recommendation:** Receive and file the quarterly financial report.

**Background:** The Finance Department prepares quarterly unaudited financial reports to monitor and review the financial activities of the operating and capital funds. The report is presented to provide the City Council and citizens with information that will assist in making informed decisions. The report is available on the City's web-site and citizens may obtain a printed copy by contacting the Department of Finance at 268-4651.

**Analysis:** Comparisons of budgeted amounts to actual revenue and expenditures are provided for each operating fund. In addition, financial statements prepared on an accrual basis are presented for enterprise funds, consistent with requirements of revenue bond covenants. The quarterly financial report does not contain all the entries and adjustments that will be reflected in the Comprehensive Annual Financial Report for fiscal 2008.

Financial highlights are summarized beginning on page iii, with financial statements beginning on page 1. Information supplementary to the financial statements begins on page 61, including information on the performance of invested funds, the City's bonded indebtedness relative to the legal debt limitations, capital projects currently underway, tax abatements, the status of the Debt Service fund relative to any debt service payments due from the tax increment financing districts, and a quarterly summary of disadvantaged and emerging business activity.

**Financial Considerations:** The Director of Finance will provide a financial overview and stand for questions.

**Goal Impact:** The Internal Perspective is advanced with the Quarterly Financial Report providing information on the financial condition of City to the City Council, to the Citizens of Wichita and to investors. In addition, the report demonstrates budgetary compliance with applicable laws and ordinances for the reporting year.

**Legal Considerations:** No consideration necessary.

**Recommendations/Actions:** It is recommended that the City Council receive and file the Quarterly Financial Report for the quarter ended September 30, 2008.

**City of Wichita  
City Council Meeting  
November 4, 2008**

**TO:** Mayor and City Council Members

**SUBJECT:** Improvement to the intersection of 17<sup>th</sup> and Hillside (District I)

**INITIATED BY:** Department of Public Works

**AGENDA:** New Business

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**Recommendations:** Approve the project.

**Background:** The 2007-2016 Capital Improvement Program adopted by the City Council includes a project to improve the intersection of 17<sup>th</sup> and Hillside. On January 3, 2005, District I Advisory Board sponsored a neighborhood meeting on the project. The Board asked that additional options be considered to reduce the impact on adjacent businesses. Public Works-Engineering staff met with adjacent property owners and developed a design concept that minimizes the amount of right-of-way to be acquired. In addition, the scope of the project has also been expanded to make improvements to 17<sup>th</sup> Street from Hillside to Grove. On October 8, 2008, District I Advisory Board sponsored a neighborhood hearing on the project. The Board voted 8-0 to recommend approval of the project.

**Analysis:** The project will provide left turn lanes on all approaches to the 17<sup>th</sup> at Hillside intersection and reconstruct 17<sup>th</sup> Street west to Grove. Traffic signals will be upgraded to provide left turn signal phases at all four approaches to the intersection. Drainage will be improved. Construction is planned for 2009.

**Financial Considerations:** The estimated project cost is \$3,000,000 with \$1,000,000 paid by the City and \$2,000,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by improving traffic flow and safety at a major intersection.

**Legal Considerations:** The Department of Law has approved the authorizing Ordinance as to legal form.

**Recommendation/Actions:** It is recommended that the City Council approve the project, place the Ordinance on first reading and authorize the signing of State/Federal agreements as required.

**Attachments:** Map, CIP Sheet, Ordinance.

First Published in the Wichita Eagle

**ORDINANCE NO. 48-110**

AN ORDINANCE DECLARING THE **INTERSECTION OF 17TH AND HILLSIDE (472-84766)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 12-685 provides that the governing body of any city shall have the power to designate and establish by ordinance any existing or proposed street, boulevard, avenue, or part thereof to be a main trafficway, the main function of which is the movement of through traffic between areas of concentrated activity within the city, and

WHEREAS, K.S.A. 12-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. 12-685 et seq., and

WHEREAS, K.S.A. 12-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. 12-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large from the general improvement fund, general revenue fund, internal improvement fund, or any other fund or funds available for such purpose or by the issuance of general improvement bonds.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That the **intersection of 17th and Hillside (472-84766)** in the City of Wichita, Kansas is hereby designated and established as a main trafficway, the primary function of which is the movement of through traffic between areas of concentrated activity within the City, said designation made under the authority of K.S.A. 12-685.

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to the **intersection of 17th and Hillside (472-84766)** as a main trafficway in the following particulars:

The design, construction of a roadway, acquisition of right-of-way, installation of traffic signals, relocation of utilities and landscaping, as necessary for a major traffic facility.

SECTION 3. The costs of the construction of the above described improvements is estimated to be **Three Million Dollars (\$3,000,000)** exclusive of the cost of interest on borrowed money, with **\$1,000,000** paid by the City of Wichita and **\$2,000,000** paid by Federal Grants, administered by the Kansas Department of Transportation. Said City share, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689.

SECTION 4. The above described main trafficway improvements shall be made in accordance with the Plans and Specifications prepared under the direction of the City Engineer of the City of Wichita and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the office of the City Engineer.

SECTION 5. Be it further ordained that the improvements described herein are hereby authorized under the provisions of K.S.A. 12-685 et seq.

SECTION 6. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
GARY REBENSTORF, DIRECTOR OF LAW



17<sup>th</sup> St N – Grove to Hillside





CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

- USE:
1. Prepare in triplicate  
2. Send original & 2 copies to budget.  
3. City Manager to sign all copies.  
4. File original w/ initiating resolution in City Clerk.  
5. Return 2nd copy to initiating department.  
6. Send 3rd copy to Controller.

To Initiate Project	X
To Revise Project	

1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 10/15/2008	4. Project Description & Location 17th/Hillside	
5. CIP Project Number MS-200405	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date	
9. Estimated Start Date	10. Estimated Completion Date		11. Project Revised	
As Required	As Required			
12. Project Cost Estimate				
ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.	\$1,000,000		\$2,000,000	\$3,000,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Bike Path				
Totals	\$1,000,000		\$2,000,000	\$3,000,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				
13. Recommendation: Approve the Project and Ordinance				
472-84766				
Remarks:				
12A.				
Platting Required Lot Split Petition Ordered by WCC				
Yes No				

Division Head <i>Stan Jones</i> for Jim Adams	Department Head <i>John M. Co.</i>	Budget Officer <i>W. J. Miller</i>	City Manager
10/16/08			

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council  
**SUBJECT:** Linwood Park (District I)  
**INITIATED BY:** Department of Park and Recreation  
**AGENDA:** New Business

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**Recommendation:** Approve the bonding resolutions and authorize initiation of the project.

**Background:** Linwood Park was acquired in 1887, as a donation by Henry Schweiter, Charles Aldrich and others as part of the Linwood park system. Land and Water Conservation Funds, provided by the Kansas Department of Wildlife & Parks and the National Park Service, have been used to develop this park. This park contains 90 different species of beautiful trees emanating from a diversification theme instigated in 1950 by the Board of Park Commissioners along with the Park Department Greenhouse and Nursery. The Recreation Center includes library facilities and is also utilized by the Good Neighbor Nutrition Program who serves hot lunches to the elderly.

**Analysis:** The 2008 Park Capital Improvement Program (CIP) includes funding for Linwood Park improvements and renovations. The Linwood Recreation Center roof is deteriorating rapidly and is in need of replacement. These necessary renovation projects will protect the City's investment in the facility, by keeping them functional and aesthetically attractive to citizen users.

**Financial Considerations:** The 2008 Park CIP includes \$500,000. The projected cost to replace the roof at Linwood Recreation Center is \$340,000. The funding source is general obligation bonds.

**Goal Impact:** The improvements will impact the Quality of Life Goal and the Efficient Infrastructure Goal. The repairs will improve the existing infrastructure and allow citizens the opportunity to participate in recreational activities and improve their quality of life.

**Legal Considerations:** The Law Department has approved the bonding resolution as to form.

**Recommendation/Action:** It is recommended that the City Council 1) approve the bonding resolution, 2) authorize initiation of the project, and 3) authorize all necessary signatures.

**Attachments:** Bonding Resolution

First Published in the Wichita Eagle on November 7, 2008

RESOLUTION NO. 08-508

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE IMPROVEMENT AND RENOVATION OF LINWOOD PARK ROOF.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

Labor, Material, and Equipment necessary for roof replacement and renovation at Linwood Recreation Center.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed \$340,000 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by City of Wichita Charter Ordinance No. 156.

SECTION 4: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this 4<sup>th</sup> day of November, 2008.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY REBENSTORF, DIRECTOR OF LAW

**City of Wichita  
City Council Meeting  
November 4, 2008**

**TO:** Mayor and City Council Members

**SUBJECT:** 2008 & 2009 Park Facilities Renovation (All Districts)

**INITIATED BY:** Department of Park and Recreation

**AGENDA:** New Business

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**Recommendation:** Approve the Bonding Resolution and authorize initiation of the project.

**Background:** The Park and Recreation Department has a number of existing facilities and park amenities that are aging and in need of renovation and updating. This project has been initiated each year since 2001 and has resulted in significant improvements in all parks, recreation centers and park shelter facilities. The 2007 Park Capital Improvement Program (CIP) included funding for the renovation of several park facility projects. These renovation projects protect the City's investment in these facilities, by keeping them functional and aesthetically attractive to citizen users. Improvements were completed at Riverside Park facilities and Edgemoor skatepark through the utilization of labor, materials, and equipment for the improvement and/or renovations.

**Analysis:** The 2008 and 2009 Park Capital Improvement Program (CIP) includes funding for the renovation or updates of several park, recreational and administration facilities. These necessary renovation projects will protect the City's investment in these facilities, by keeping them functional and aesthetically attractive to citizen users. Improvement plans call for replacing of old park equipment and amenities with new equipment such as picnic tables, park benches, drinking fountains, athletic field bleachers, scoreboards and a portable sound system used for special events. Updates and minor renovations for recreation centers will include gym dividers, ice machines, volleyball standards, kitchen remodel, tables & chairs, and projector and electronics for the department's conference meeting room. Removal and replacements will also be made to Watson Park for the train depot, pony shelter and pedal boats. Finally, \$15,000 will be used for partial matching funds in cooperation with Habitat for Humanity, Inc., for the construction of a new playground system at 33<sup>rd</sup> St. and Jackson.

**Financial Considerations:** The 2008 and 2009 Park CIP includes \$200,000 for each year for a total of \$400,000 for the renovation of park and recreation facilities. The funding source is general obligation bonds.

**Goal Impacts:** This project will impact the Quality of Life and Infrastructure Goals by providing citizens with updated and well maintained recreational facilities. The improvements and renovations will also maintain the investment that citizens have made in capital improvement to existing recreational facilities.

**Legal Considerations:** The Law Department has approved the Bonding Resolution as to form.

**Recommendation/Action:** It is recommended that the City Council 1) approve the Bonding Resolution, 2) authorize initiation of the project, and 3) authorize all necessary signatures.

**Attachment:** Bonding Resolution

First Published in the Wichita Eagle on November 7, 2008

RESOLUTION NO. 08-509

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR IMPROVEMENTS AND/OR RENOVATIONS TO PARKS, PARK FACILITIES, RECREATION CENTERS, AND SPORTS COMPLEXES.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

Labor, material, and equipment for the improvement and/or renovations such as Edgemoor and Evergreen gym dividers, McAdams kitchen remodel, Osage Volleyball standards; Watson Park pony barn and train depot renovations; and new playground system at 33rd St. and Jackson. Additional improvements included a portable sound system, audio and video electronics for the 11th Floor City Hall conference meeting room, replacement of various athletics venues scoreboard and bleachers; and replacement of drinking fountains, table and chairs, ice machines, picnic tables and benches at numerous sites.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed \$400,000, exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by City of Wichita Charter Ordinance No. 156.

SECTION 4: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this 4<sup>th</sup> day of November, 2008.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY REBENSTORF, DIRECTOR OF LAW



City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** Swimming Pool Improvements (Districts I, II, IV, V & VI)

**INITIATED BY:** Department of Park and Recreation

**AGENDA:** New Business

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**Recommendation:** Approve the bonding resolution and authorize the initiation of the projects.

**Background:** The Park and Recreation Department maintains and operates eleven (11) municipal pools within the City's park system. The pools, decking, bath houses and other amenities are in various stages of disrepair and in need of improvements.

**Analysis:** The 2008 Park Capital Improvement Program (CIP) includes funding for swimming pool improvements and refurbishments. Improvements and refurbishments will protect the City's investment in Park and Recreation facilities/amenities and enhance their use by fee-paying users, neighborhood groups and citizens. Pools provide swimming lessons, competitive swim programs, aquatics classes, open swim, special events and an overall positive outlet for citizens. Staff recommends funding the following pool improvements:

- Harvest – replace decking, bathhouse renovations, plumbing improvements and valve replacements.
- Orchard – valve replacements.
- McAdams – valve/riser repair.
- Boston – valve replacements.
- Linwood –pool basin improvements and valve replacements.
- Aley – valve replacements.
- Edgemoor – filter and flow meter repair and replacement.
- Evergreen – valve repair.

**Financial Considerations:** The 2008 Park CIP includes \$100,000 for swimming pool refurbishments. The source of funding is General Obligation bonds.

**Goal Impact:** The Quality of Life Goal is impacted as Park and Recreation improvements will enhance the quality of recreation and leisure services and help to increase and sustain the vitality of the neighborhood along with community satisfaction.

**Legal Considerations:** The Law Department has approved the bonding resolution as to form.

**Recommendations/Actions:** It is recommended that the City Council 1) approve the bonding resolution, 2) authorize the initiation of the projects, and 3) authorize all necessary signatures.

**Attachments:** Bonding resolution.

First Published in the Wichita Eagle on November 7, 2008

RESOLUTION NO. 08-510

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE IMPROVEMENTS AND REFURBISHMENTS AT VARIOUS MUNICIPAL SWIMMING POOLS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

Labor, Material, and Equipment for improvements and refurbishments at the following municipal swimming pools: Harvest, replace deck sections, bathhouse renovations, and plumbing improvements; Linwood, pool basin painting improvements; Edgemoor filter and flow meter repair and replacement; Harvest, Orchard, McAdams, Boston, Linwood, Aley and Evergreen valve system repair or replacements.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed \$100,000 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by City of Wichita Charter Ordinance No. 156.

SECTION 4: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this 4<sup>th</sup> day of November, 2008.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY REBENSTORF, DIRECTOR OF LAW

**City of Wichita**  
**City Council Meeting**  
November 4, 2008

**TO:** Mayor and Council Members

**SUBJECT:** Architectural Programming Services New Central Library (All Districts)

**INITIATED BY:** Wichita Public Library

**AGENDA:** New Business

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**Recommendation:** Authorize the Staff Screening and Selection Committee to select an architectural programming consultant.

**Background:** The Wichita Public Library System Master Plan, 2006-2021 was adopted by the Library Board of Directors on August 15, 2006 and endorsed by the City Council on September 12, 2006. On November 6, 2007, the City Council adopted a \$30,000,000 bonding resolution, initiated the Capital Improvement Project (CIP) for a new Central Library and authorized negotiation to acquire property once a site was selected. On June 3, 2008, City Council approved a Real Estate Purchase Contract and Lease Agreement to acquire property at 711 West 2<sup>nd</sup> Street as the location for the new Central Library.

**Analysis:** It is the intent of the City of Wichita to contract with the best available firm to assist in developing a building program for the new Central Library. The firm will be selected, following the City's standard selection process, from a pool of qualified applicants that respond to national distribution of a Request for Proposal (RFP).

After the building program has been completed and accepted by the City, a separate Request for Proposal will be issued locally soliciting proposals from architectural firms for the design of the new Central Library and the preparation of corresponding construction documents. The firm selected for programming will not be allowed to compete for the building's design services. The architectural firm selected to design the new Central Library will have no programming responsibility. Instead, that firm will be required to include the selected programming firm as part of its design team.

Once the Staff Screening and Selection Committee has selected a programming firm and a contract has been negotiated, that agreement will be brought back to the City Council as a consent item for approval.

**Financial Considerations:** The adopted 2007-2016 Capital Improvement Program includes \$1 million in 2008, \$2 million in 2009, \$3 million in 2010 and \$12 million each in 2011 and 2012 for this project.

**Goal Impact:** Creation of a new Central Library supports City of Wichita goals for Quality of Life and Neighborhoods as well as Visioneering Wichita's goals for downtown development and libraries.

**Legal Considerations:** No action required.

**Recommendation/Action:** It is recommended that the City Council authorize issuance of a Request for Proposal (RFP) to select a consultant for architectural programming services for a new Central Library.

**Attachment:** Request for Proposal (RFP) Architectural Programming Services

**REQUEST FOR PROPOSAL (RFP)**  
**ARCHITECTURAL PROGRAMMING SERVICES**  
**NEW CENTRAL LIBRARY**  
**WICHITA, KANSAS**

**INTRODUCTION AND BACKGROUND**

The City of Wichita, Kansas, is planning to build a new Central Library in downtown Wichita to replace the current facility. This new library, identified as the highest priority project in the Wichita Public Library System Master Plan (February 2007), will serve as the primary facility and administrative headquarters in a library system that also includes one Regional Library, three District Libraries, four Neighborhood Libraries, and one library that is operated in partnership with a Wichita Public School facility.

The existing multi-story Central Library located at 223 S. Main Street contains approximately 89,000 square feet. The new larger facility will be on land currently being cleared southwest of the intersection of 2<sup>nd</sup> Street and McLean Boulevard.

The planned schedule for the new Central Library assumes the Architectural Programming Phase will begin in the fall of 2008. The Architectural Design Phase and the development of Construction Documents will be completed in early 2010. Construction will begin in the spring of 2010 and be completed by the end of 2011.

It is the intent of the City of Wichita to contract with the best available firm to assist the City in developing the Architectural Program for the new Central Library. The firm will be selected, following the City's standard selection process, from a pool of qualified applicants that have responded to the national distribution of this RFP.

After the Architectural Program has been completed and accepted by the City, a separate RFP will be issued locally soliciting proposals from architectural firms for the design of the new Central Library and the preparation of construction documents. The architectural firm selected to design the new Central Library will have no programming responsibility. Instead, that architectural firm will be required to include the programming firm selected under this RFP as part of their team. The programming firm will not be allowed to submit a separate proposal for the architectural design services.

**PROJECT REQUIREMENTS**

The firm selected through this RFP process (Programming Firm) shall provide professional services resulting in a document (Architectural Program) fully outlining the criteria that will be used later by the architectural firm selected through the second RFP process (Architects) in developing the functional design of the Central Library.

In the process of developing the Architectural Program for the Central Library, the Programming Firm shall utilize the best professional practices and the latest in accepted library standards including but not limited to the following:

- Conduct interviews with all people involved in the management of the Wichita Public Library System (Library System) and others as designated to be interviewed by the Director of Libraries, potentially including the City Manager, Mayor and members of the City Council.
- Meet with and solicit the input of the members of the Library Board of Directors, the Friends of the Library Board of Governors and the Board of Directors of the Wichita Public Library Foundation.
- Gain a complete understanding of the functions and management practices of the existing Library system, including those specific to the Central Library.
- Gain a complete understanding of the dreams and goals for the future of the Library System as expressed by those responsible for overseeing the Library System.
- Gain a complete understanding of other agencies or services that might potentially be appropriately co-located within the new Central Library.

- Lead tours for a small group on three site visits to other libraries the Programming firm deems to be the most outstanding examples of comparably programmed buildings opened within the last decade.
- Based on the information gathered in the steps outlined above, develop a written document (Trial Program) outlining space requirements, equipment descriptions and suggested operational practices for the new Central Library. Also include a written and/or graphic document that delineates the functional relationships between the required spaces. Utilizing recent cost-per-square-foot information from comparable facilities in other cities, develop a cost estimate for the Central Library as described in the Trial Program.
- Present the Trial Program to the key people as designated by the Director of Libraries, solicit their input, and work together as necessary to modify the Trial Program into a Final Program that best represents the mutually acceptable needs of the new Central Library and fits within the budgetary limits of the City.
- Deliver the Final Program to the Director of Libraries no later than six months from receipt of the contract for this project and be available to assist in the presentation of that program to the Wichita City Council or other groups as may be required in the weeks that follow.
- Agree to serve as a consultant to the Architects selected to provide professional services including the Architectural Design and Construction Documents. As a consultant, the Programming firm will be available to assist in interpreting the Architectural Program and to make modifications to the Architectural Program that may become necessary during the design process. Compensation to the Programming Firm for this portion of the work will be a portion of the Architect's contract.

### **PROPOSAL REQUIREMENTS**

1. Firm name, address, telephone number, and contact person(s).
2. Brief history of firm, including number of years of experience.
3. Name of principals of the firm and the states in which registered.
4. Special qualifications and experience of the firm in preparing the Architectural Program for major library projects.
5. Number of staff available for the project, and the library programming qualifications of individual staff members that would work on the project. Include the name and background of the project manager.
6. List of similar completed projects for which the firm has provided programming services with reference contact information.
7. Provide references from at least three previous clients for which architectural programming services were provided on new library projects comparable to, or larger than, the Wichita Central Library.
8. Agree to comply with insurance requirements as set forth by the State of Kansas and the City of Wichita.
9. Agree to comply with requirements set forth in the Non-discrimination and Equal Employment Opportunity Statements and/or any other Federal or State requirements.

Submit twenty (20) copies of your **Formal Proposal to the Purchasing Manager at 455 North Main, 12<sup>th</sup> Floor, Wichita, KS 67202**. To be considered, all Formal Proposals must be received by the Purchasing Manager no later than 12:00 Noon on \_\_\_\_ (day) \_\_\_\_, \_\_ (date) \_\_\_\_, 2008.

### **SELECTION PROCESS**

The Staff Screening and Selection Committee will review proposals and select candidates for interview. Selection will be based on qualifications and experience related to the project in consideration. Other considerations include the firm's availability to provide required services within identified time limitations.

Following selection by the Staff Screening and Selection Committee, the highest ranked firm is then contacted for contract negotiation. Once a preliminary contract is negotiated, the firm is recommended to the City Manager for action by the City Council. The City Council reviews and approves or disapproves the contract and authorizes the necessary signatures.

The City reserves the right to reject any or all proposals and reserves the right to modify the scope of services during negotiation of the contract.

### **PRE-PROPOSAL CONFERENCE**

A pre-proposal conference will be held \_\_\_\_ (date) \_\_\_\_ in the **Board Room on the 1<sup>st</sup> floor of City Hall** to review requirements contained in the proposal package and to make any necessary changes. Attendance is recommended for firms submitting proposals.

## **CONTACT**

**Direct questions to:**

**Norman Jakovac, Project Manager**

**City of Wichita**

**455 N. Main, 8<sup>th</sup> Floor**

**Wichita, KS 67202**

**Tel: 316-268-4474**

**Fax. 316-858-7502**

**Email: [njakovac@wichita.gov](mailto:njakovac@wichita.gov)**

**DATE: October 20, 2008**

**CDM SUMMARY**

**COUNCIL DISTRICT # 1**

**ADDRESS: 1226 N. Lorraine**

**LEGAL DESCRIPTION: Lots 74 and 76, Lorraine Avenue, Fairmount Park Addition to Wichita, Sedgwick County, Kansas.**

**DESCRIPTION OF STRUCTURE: A one story frame dwelling about 24x38 feet in size. Vacant and open, this structure has shifting and cracking concrete block basement walls; rotted and missing asbestos siding; sagging and badly worn composition roof, with missing shingles; deteriorating front porch; rotted wood trim and framing members; and the accessory structure is dilapidated.**

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those open to unauthorized persons or those permitted to be attractive to loiterers, vagrants, or children.
- D. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

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Superintendent of Central Inspection  
Enforcing Officer

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Date

**DATE: October 20, 2008**

**BCSA GROUP # 5**

**ADDRESS: 1226 N. Lorraine**

**ACTIVE FIELD FILE STARTED: November 18, 2002**

**NOTICE(S) ISSUED:** Since November 18, 2002, a notice of improvement and numerous violation notices have been issued. There have been Uniform Criminal Complaints issued. Central Inspection staff has completed an emergency board-up at a cost of \$152.03 and there is an open Environmental Abatement case on this property. On April 24, 2008, staff made contact with possible new owner Mr. Jerry McCray; he was informed of the BCSA hearing and mailed a copy of notice of violations.

**CONDEMNATION LETTER: March 6, 2008**

**TAX INFORMATION:** The 2004, 2005, 2006 and 2007 taxes are delinquent in the amount of \$1207.47.

**COST ASSESSMENTS/DATES:** There is a pending special for board-up in the amount of \$157.94.

**PREMISE CONDITIONS:** Large pile of limbs, bulky waste and miscellaneous debris.

**VACANT NEGLECTED BUILDING REPORT: None**

**NUISANCE ABATEMENT REPORT: None**

**POLICE REPORT:** From May 5, 1991 through January 21, 2004 there have been six reported police incidents at this location including battery, miscellaneous report, aggravated battery domestic violence, destruction of property domestic violence, embezzled auto and unlawful possession narcotics.

**FORMAL CONDEMNATION ACTION INITIATED: March 18, 2008**

**RECENT DEVELOPMENTS:** No repairs made. Property is unsecure with several broken windows on the east side.

**OWNER'S PAST CDM HISTORY: None**

**BOARD OF C.S.&A. RECOMMENDATION:** At the May 5, 2008 BCSA hearing Jerry McCray, the new owner, was present to represent this property.

Mr. McCray requested that the Board allow ninety days for him to clean the premises and make the required repairs. He said that he had a list of requirement repairs; however, he



wanted to meet with an inspector on site to be certain that he understood what needed to be addressed.

Board Member Harder made a motion to allow ninety days for the premises to be cleared of debris and the required repairs made to the structure, maintaining the site in a clean and secure condition in the interim. Board Member Banuelos seconded the motion. The motion passed.

At the September 8, 2008 BCSA, hearing there was no one present as a representative for this property.

At the May 5, 2008, hearing, this property was brought before the Board for the first time. The new owner, Jerry McCray, was present at that meeting and was granted an extension of ninety days to clear the debris from the premises and make the required repairs, maintaining the site in a clean and secure condition in the interim.

The 2004, 2005, 2006, and 2007 taxes are delinquent in the amount of \$968.78. There is a pending special assessment for a board up in the amount of \$152.03. There are tall grass and weeds, bulky waste, and debris on the premises. Although the structure is secure, no work has been done.

Board Member Harder made a motion to refer the property to the City Council with a recommendation of demolition, with ten days to start demolition and ten days to complete demolition. Board Member Willenberg seconded the motion. The motion passed.

**STAFF RECOMMENDATION/REMARKS:** Adopt the recommendation of the Board of Code Standards and Appeals. However, any extensions to repairs would be providing that all provisions of City Council Policy 33 are complied with. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

**November 4, 2008**  
**City Council Hearing**  
**Removal of Dangerous Structures Case Summary**

Address	Cncl. Dist.	Hsng. Case Age	CLEAN Team Invlvmt?	Cndm. Init. Date	BCSA Hrng. Date	Owner/ Rep. At BCSA ?	BCSA Recomm.	Open or Secure	Premise Cond. Status	Prop. Tax Status	Board-up & Clean-up Assmnts.
1226 N. Lorraine	I	5 yrs 11 mos	No	02/25/08	05/05/08 09/08/08	Yes No	90 Days 10/10	Property is unsecure with several broken windows on the east side.	Large pile of limbs, bulky waste and miscellaneous debris.	2004, 2005, 2006 and 2007 taxes are delinquent in the amount of \$1207.47	Pending special for board-up in the amount of \$157.94.

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** Repair or Removal of Dangerous & Unsafe Structure  
(District I)

**INITIATED BY:** Office of Central Inspection

**AGENDA:** New Business

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**Recommendations:** Adopt the resolution.

**Background:** On September 23, 2008, a report was submitted with respect to the dangerous and unsafe conditions on the property below. The Council adopted a resolution providing for a public hearing to be held on the condemnation action at 9:30 a.m. or as soon thereafter, on November 4, 2008.

**Analysis:** On September 8, 2008, the Board of Code Standards and Appeals (BCSA) held a hearing on the residential property listed below

**Property Address**  
a. 1226 North Lorraine

**Council District**  
I

Detailed information/analysis concerning this property are included in the attachments.

**Financial Considerations:** Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional \$500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

**Goal Impact:** On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

**Legal Considerations:** Pursuant to State Statute, the Resolutions were duly published twice on September 26, 2008 and October 3, 2008. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

**Recommendations/Actions:** It is recommended that the City Council close the public hearing, adopt the resolutions declaring the buildings to be dangerous and unsafe structures, and accept the BCSCA recommended actions to proceed with condemnation, allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair any structures would be contingent on the following: (1) All taxes have been paid to date, as of November 4, 2008; (2) the structures have been secured as of November 4, 2008 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of November 4, 2008, and will be so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owner of these findings.

**Attachments:** Case Summary, Summary and Follow-Up History.

**DATE: October 20, 2008**

**CDM SUMMARY**

**COUNCIL DISTRICT # 1**

**ADDRESS: 1226 N. Lorraine**

**LEGAL DESCRIPTION: Lots 74 and 76, Lorraine Avenue, Fairmount Park Addition to Wichita, Sedgwick County, Kansas.**

**DESCRIPTION OF STRUCTURE: A one story frame dwelling about 24x38 feet in size. Vacant and open, this structure has shifting and cracking concrete block basement walls; rotted and missing asbestos siding; sagging and badly worn composition roof, with missing shingles; deteriorating front porch; rotted wood trim and framing members; and the accessory structure is dilapidated.**

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

- A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.
- B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.
- C. Those open to unauthorized persons or those permitted to be attractive to loiterers, vagrants, or children.
- D. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

---

Superintendent of Central Inspection  
Enforcing Officer

---

Date

**DATE: October 20, 2008**

**BCSA GROUP # 5**

**ADDRESS: 1226 N. Lorraine**

**ACTIVE FIELD FILE STARTED: November 18, 2002**

**NOTICE(S) ISSUED:** Since November 18, 2002, a notice of improvement and numerous violation notices have been issued. There have been Uniform Criminal Complaints issued. Central Inspection staff has completed an emergency board-up at a cost of \$152.03 and there is an open Environmental Abatement case on this property. On April 24, 2008, staff made contact with possible new owner Mr. Jerry McCray; he was informed of the BCSA hearing and mailed a copy of notice of violations.

**CONDEMNATION LETTER: March 6, 2008**

**TAX INFORMATION:** The 2004, 2005, 2006 and 2007 taxes are delinquent in the amount of \$1207.47.

**COST ASSESSMENTS/DATES:** There is a pending special for board-up in the amount of \$157.94.

**PREMISE CONDITIONS:** Large pile of limbs, bulky waste and miscellaneous debris.

**VACANT NEGLECTED BUILDING REPORT:** None

**NUISANCE ABATEMENT REPORT:** None

**POLICE REPORT:** From May 5, 1991 through January 21, 2004 there have been six reported police incidents at this location including battery, miscellaneous report, aggravated battery domestic violence, destruction of property domestic violence, embezzled auto and unlawful possession narcotics.

**FORMAL CONDEMNATION ACTION INITIATED:** March 18, 2008

**RECENT DEVELOPMENTS:** No repairs made. Property is unsecure with several broken windows on the east side.

**OWNER'S PAST CDM HISTORY:** None

**BOARD OF C.S.&A. RECOMMENDATION:** At the May 5, 2008 BCSA hearing Jerry McCray, the new owner, was present to represent this property.

Mr. McCray requested that the Board allow ninety days for him to clean the premises and make the required repairs. He said that he had a list of requirement repairs; however, he wanted to meet with an inspector on site to be certain that he understood what needed to be addressed.

Board Member Harder made a motion to allow ninety days for the premises to be cleared of debris and the required repairs made to the structure, maintaining the site in a clean

**and secure condition in the interim. Board Member Banuelos seconded the motion. The motion passed.**

**At the September 8, 2008 BCSCA, hearing there was no one present as a representative for this property.**

**At the May 5, 2008, hearing, this property was brought before the Board for the first time. The new owner, Jerry McCray, was present at that meeting and was granted an extension of ninety days to clear the debris from the premises and make the required repairs, maintaining the site in a clean and secure condition in the interim.**

**The 2004, 2005, 2006, and 2007 taxes are delinquent in the amount of \$968.78. There is a pending special assessment for a board up in the amount of \$152.03. There are tall grass and weeds, bulky waste, and debris on the premises. Although the structure is secure, no work has been done.**

**Board Member Harder made a motion to refer the property to the City Council with a recommendation of demolition, with ten days to start demolition and ten days to complete demolition. Board Member Willenberg seconded the motion. The motion passed.**

**STAFF RECOMMENDATION/REMARKS:** Adopt the recommendation of the Board of Code Standards and Appeals. However, any extensions to repairs would be providing that all provisions of City Council Policy 33 are complied with. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

Case CON2008-00032  
 Total Area 185,291 sq. ft.  
 Application Area 4,424 sq. ft.  
 Street R/W 97,164 sq. ft.  
 Net Area 83,703 sq. ft.  
 20% of Net Area 16,741 sq. ft.  
 Net Protest Area 39,429 sq. ft.  
 Total % Protesting 47.10%

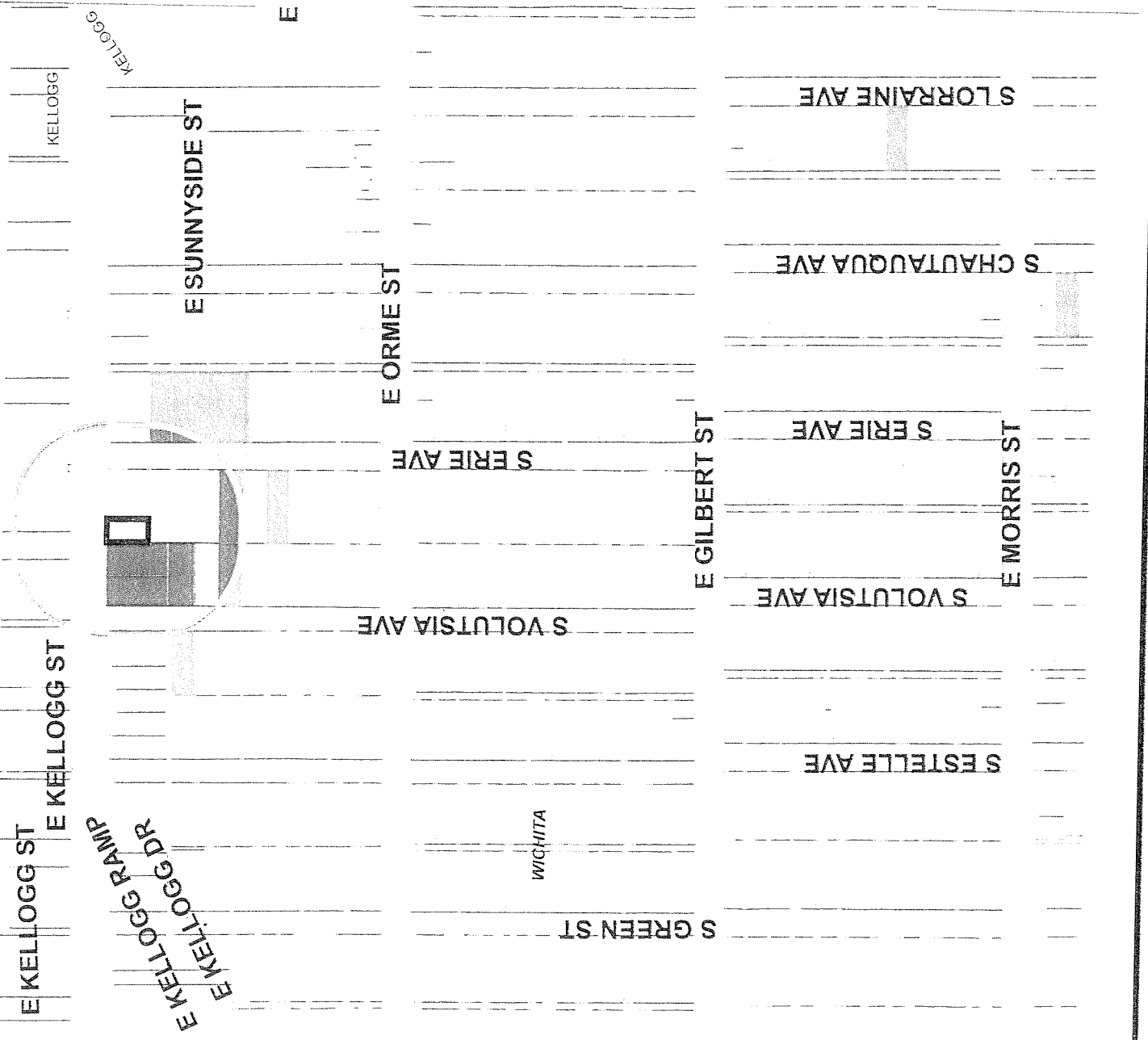
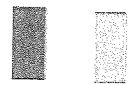
S RUTAN AVE  
 N

E KELLOGG RAMP

S HOLYOKE AVE

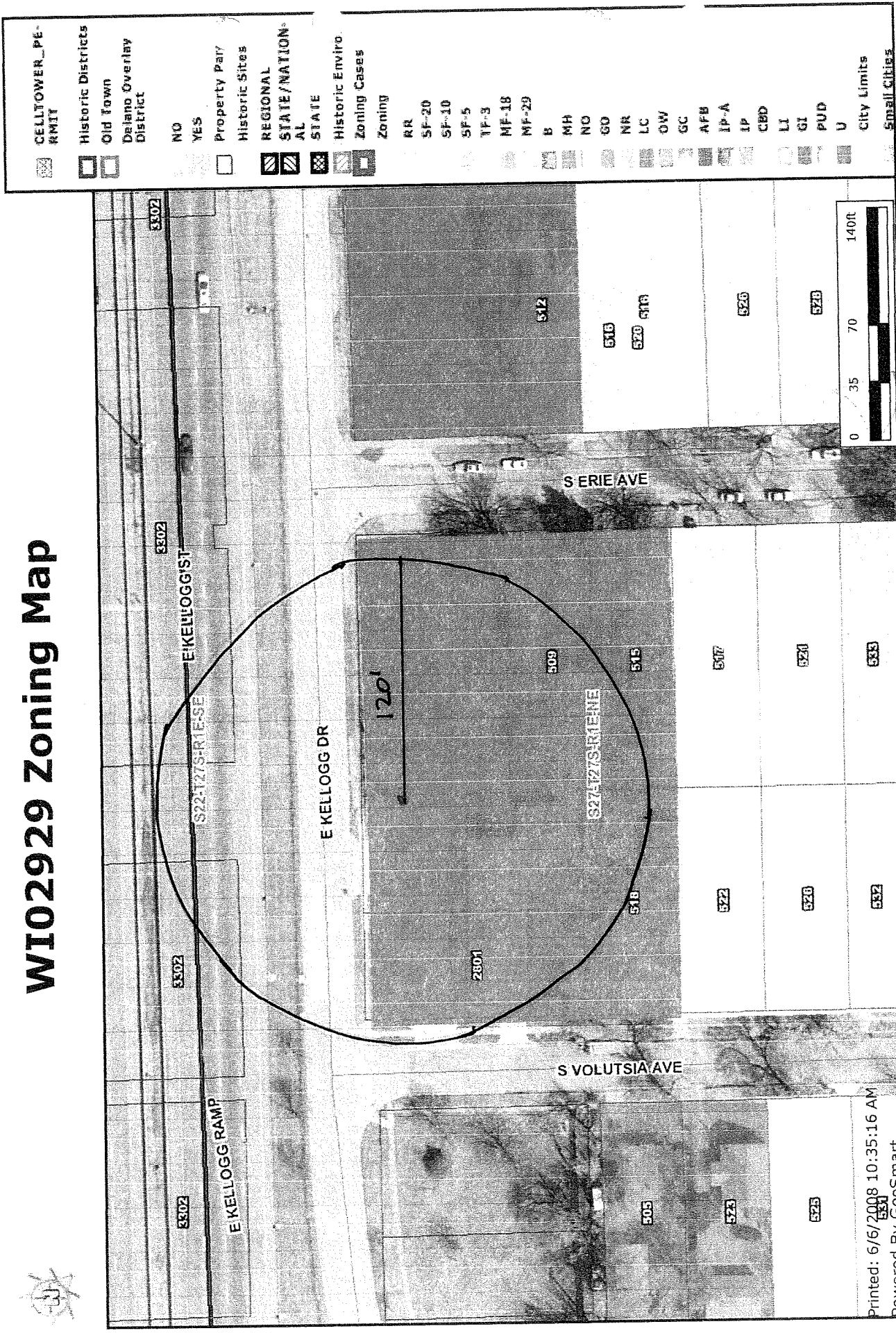
S HILLSIDE AVE

CALCULATION AREA  
 PROTEST WITHIN  
 CALCULATION AREA  
 PROTEST OUTSIDE  
 CALCULATION AREA

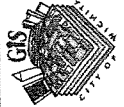




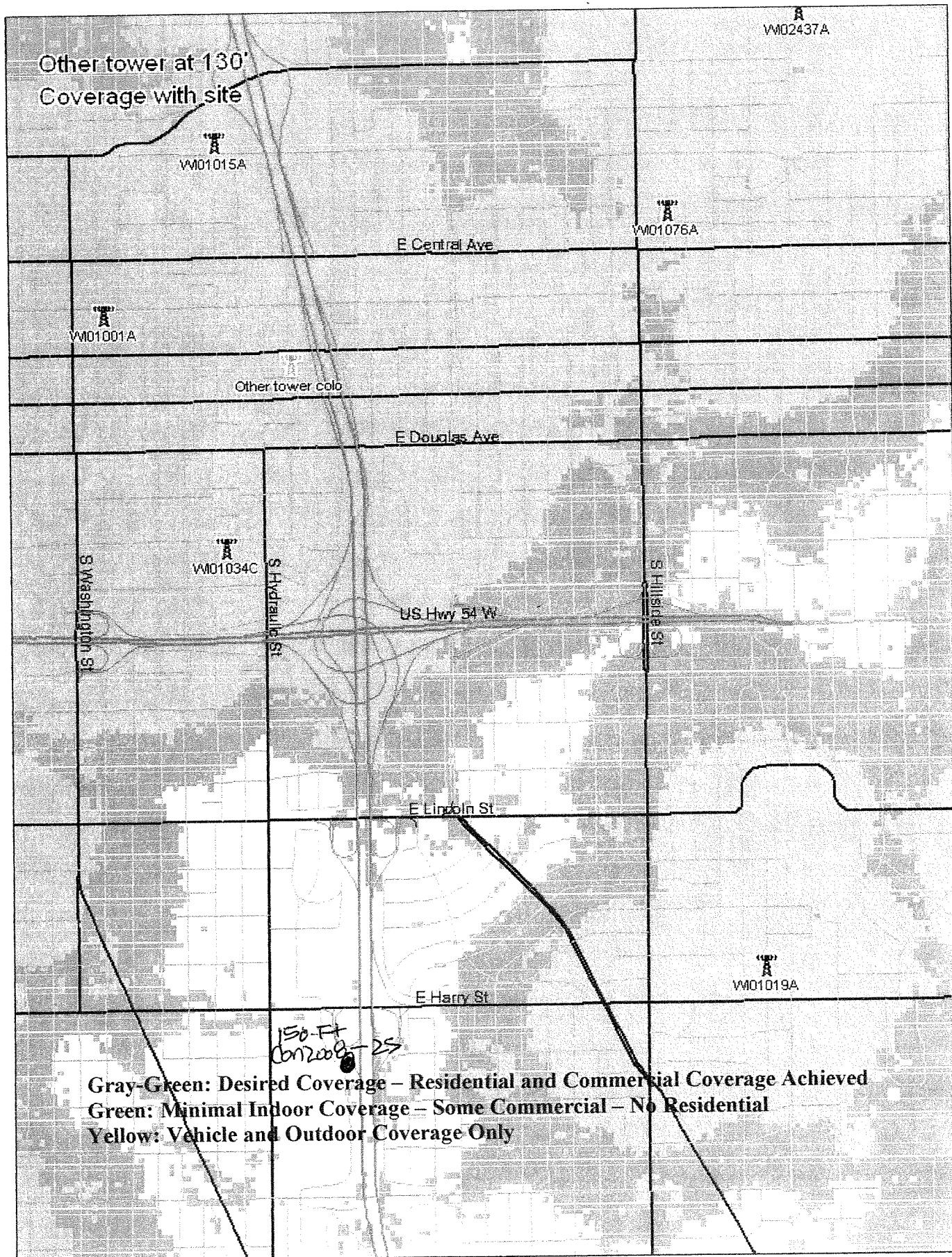
# WI02929 Zoning Map



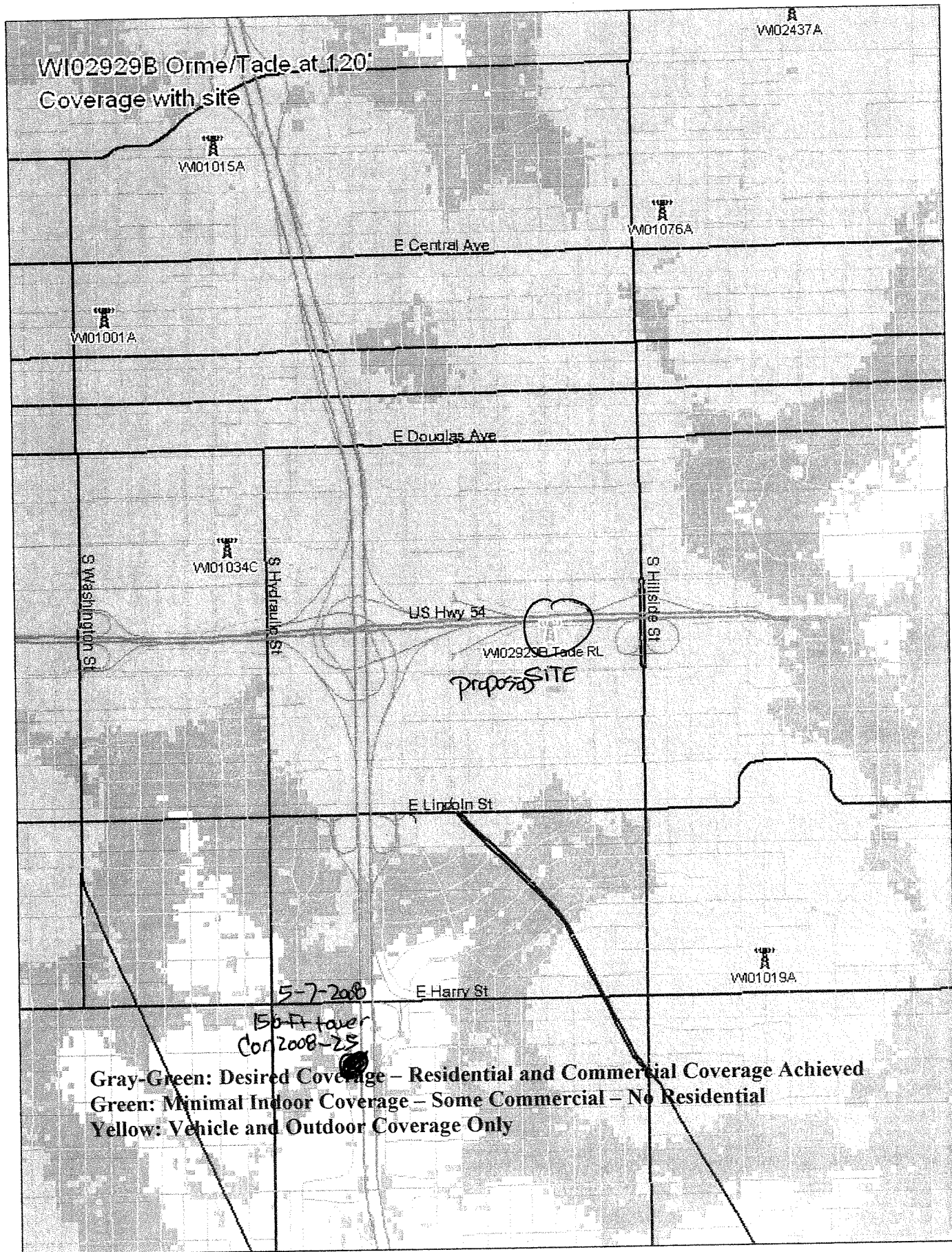
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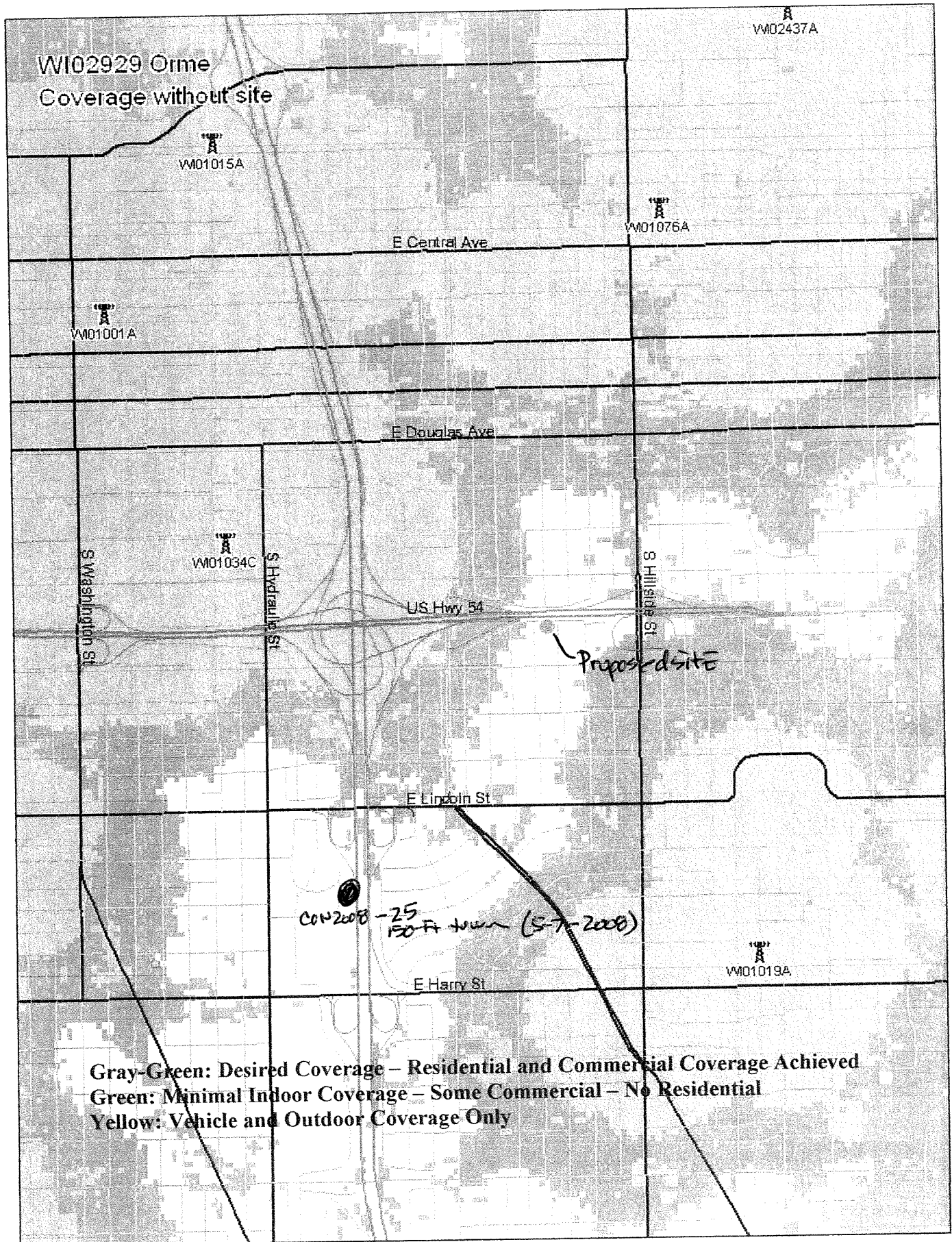


Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

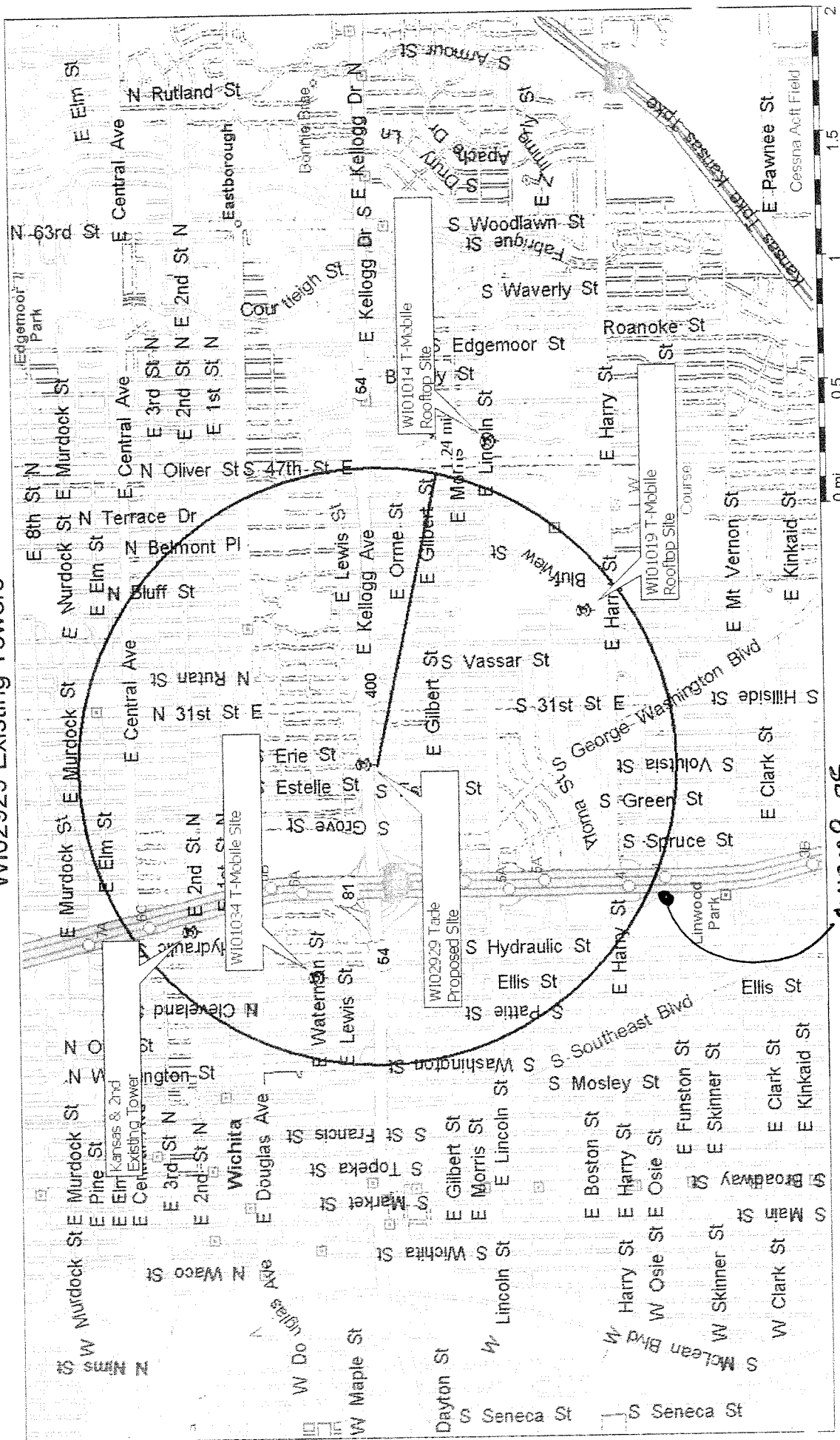








# WI02929 Existing Towers



CON 2008-25  
150-Foot tower  
5-7-2008

T-Mobile

Engineering & Operations  
4533 Enterprise Drive  
Oklahoma City, OK 73128

## Memo

**To:** City of Wichita  
**From:** Norman Olmstead, RF Engineer  
**Date:** Monday, June 16, 2008  
**Re:** W102929 Orme/Tade Proposed Tower at the South West Corner of Kellogg Dr. and Erie Ave.,  
Wichita, KS

Regarding the above-referenced tower, if the tower is approved and constructed T-Mobile Central LLC intends to locate equipment on it. Should you have any questions or require additional information, please do not hesitate to contact me at (405) 270-5600.

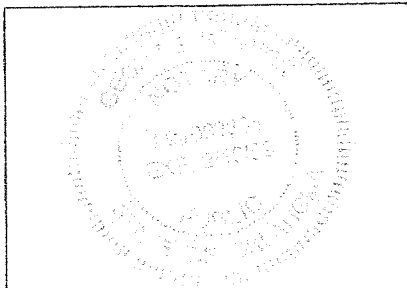
Thank you,

  
Norman Olmstead  
RF Engineer


STATE OF OKLAHOMA                   )  
  ) ss.  
COUNTY OF OKLAHOMA            )

This instrument was acknowledged before me on JUN 18 2008 by Norman Olmstead.

Dated: JUN 18 2008



(Use this space for notary stamp/seal)

  
Notary Public  
Print Name George W. Wick  
My commission expires My Commission Expires Feb. 18, 2009



T-Mobile  
Oklahoma City  
1000 N. Lincoln Blvd., Suite 1000  
Oklahoma City, OK 73102

June 16, 2008

The following details describe the need to build WI02929B Orme/Tade.

Coverage objective:

1. Provide sufficient in building coverage to the residents East and West of Hillside between Lincoln and Douglas.
2. Provide sufficient in building coverage to the commercial areas along Lincoln.
3. Provide capacity coverage along Kellogg between I-135 and Hillside.
4. Provide capacity relief for T-Mobile sites WI01034, WI01014 and WI01019. These sites are experiencing an extremely high volume, and have reached their capacity. Construction of this site at the proposed location will greatly reduce the failed access attempts that customers are currently suffering from in this area. T-Mobile USA must have relief from these sites to provide service to its customers.

Location objective:

1. The location chosen strategically places the site in the most optimal location, and allows us to achieve all of our coverage objectives.

Coverage Plots:

1. The coverage plots provided shows a before and after scenario. These are different than coverage plots that are used during coverage build out of a system. These plots show the coverage that actually exists based on the current use and capacity of existing sites. There are also coverage plots included for the existing tower near Kansas and 2<sup>nd</sup> Street.
2. The coverage plot colors represent.  
**Dark Green: Indoor Commercial Coverage.** The Dark Green areas of the map show areas where T-Mobile customers can use their phones in their homes and offices.  
**Green: Indoor Residential Coverage.** The Green areas of the map show areas where T-Mobile customers can use their phones in their homes and most commercial buildings. This is the primary objective of the T-Mobile design.  
**Yellow: Minimal Coverage.** The Yellow areas show where T-Mobile customers can use their phones in their cars, but will have little or no coverage in a building.
3. The plot that is labeled "Coverage without site" is the present coverage in the area. The plot labeled "Coverage with site" shows the proposed new coverage.

The plots for the tower located near Kansas and 2<sup>nd</sup> street show collocation on this tower provides little additional coverage. It is very near T-Mobile's existing WI01034 and over one mile from our proposed coverage area. Even if this tower was used, a new site near the proposed site would be required. There are no other existing towers in the general area of the proposed location.

Thank you,



Norman Olmstead  
T-Mobile Central LLC  
RF Engineer, Wichita/Oklahoma

Approved: 06/17/08  
Per: 06/17/08  
T-Mobile Central LLC  
Oklahoma City, Oklahoma 73102

STATEMENT OF ACKNOWLEDGEMENT AND AGREEMENT TO  
THE REQUIREMENTS OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE PERTAINING  
TO WIRELESS COMMUNICATION FACILITIES

By the signature(s) below, I (we) hereby acknowledge and agree to abide by the following requirements of the Wichita-Sedgwick County Unified Zoning Code pertaining to Wireless Communication Facilities:

1. There shall be no nighttime lighting of or on wireless communication facilities except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. No strobe lights shall be used. Lighting for security purposes shall be permitted at the base of wireless communication facilities. Temporary lighting for nighttime repairs shall be permitted.
2. No signs shall be allowed on an antenna support structure other than those required by applicable governmental agencies.
3. The support structure shall be designed, and the ground area shall be adequate or will be made adequate, to accommodate at least 1 other carrier, if more than 80 feet in height, and at least 2 other carriers, if more than 100 feet in height. Reasonable accommodations will be made to lease space on the facility to other carriers so as to avoid having a proliferation of support structures that are not fully utilized. The owner(s) shall make available in the future the opportunity for another party to pay the cost to modify or rebuild the structure to support additional communication equipment where economically and technically feasible.
4. The owner shall be responsible for the removal of unused facilities, including the uppermost 20% of support structures that are unused (except where removal of the uppermost 20% would require the removal of a lower portion the support structure that is in use, in which case the required removal will be raised to the next highest portion of the support structure not in use), within 60 days if the wireless communication facility, or portion thereof, has been unused for 12 consecutive months. If such a facility or portion of a facility is not removed by the owner, then the City or County may employ all legal measures, including, if necessary, obtaining authorization from a court of competent jurisdiction, to remove it, and after removal may place a lien on the subject property for all direct and indirect costs incurred in its dismantling and disposal, including court costs and reasonable attorney fees. Under this paragraph, "owner" shall include both the owner of the real property and the owner of the wireless communication facility, whether such ownership is divided or in the same person.
5. The Wireless Communication Facility shall comply with all federal, state, and local rules and regulations.

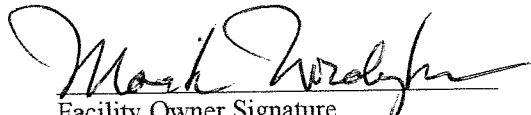
By the signature(s) below, I (we) hereby acknowledge that failure to abide by the above stated requirements of the Wichita-Sedgwick County Unified Zoning Code pertaining to Wireless Communication Facilities shall result in the revocation of the Building Permit, Administrative Permit, or Conditional Use Permit, as applicable.

  
Property Owner Signature

Mark Nordlyke For HGMJ Properties LLC  
Printed Property Owner Name

8588 W 21<sup>st</sup> St #200  
Property Owner Street Address

Wichita KS 67205  
Property Owner City, State, Zip Code

  
Facility Owner Signature

Mark Nordlyke for HGMJ Properties LLC  
Printed Facility Owner Name

8588 W 21<sup>st</sup> St. #200  
Facility Owner Street Address

Wichita KS 67205  
Facility Owner City, State, Zip Code



# *FERRIS CONSULTING*

*PO BOX 573 - WICHITA, KS 67201  
PHONE 316-516-0808 FAX 316-722-9799*

June 16, 2008

John Schlegel, Director  
Metropolitan Area Planning Department  
City Hall, 10<sup>th</sup> Floor  
455 N. Main  
Wichita, KS 67202

Dear John:

HGMJ LLC is constructing a tower for T-Mobile Central LLC. T-Mobile and HGMJ LLC request a Conditional Use Permit for the construction of a 120-foot wireless communications facility. This facility would be a monopole and will be located at approximately 2851 E. Kellogg Dr. at the corner of Kellogg Drive at Erie Ave. T-Mobile is trying to provide in building coverage to the residential properties in this area. This site is also required to relieve capacity issues on several existing T-Mobile sites. Plots and a narrative by a RF engineer are included with the application.

The area is zoned Limited Commercial and the Wireless Master Plan allows towers in this area with a CU. The area is a mixed use area with commercial, residential, institutional uses and is adjacent to a major highway. There are numerous highway light poles along Kellogg in this area. The proposed tower will be on the same visual line as these light poles and the tower will blend into the horizon with these towers.

T-Mobile approached the Kansas Department of Transportation about replacing one of these light poles with a monopole and replacing the highway lights. KDOT refused to discuss this and continues their policy of not allowing use in their right of way. There also is a high rise condominium structure at the corner of Douglas and Rutan. The board of owners of this structure does not want antennas and equipment on their building and will not lease space to wireless carriers.

There are no other towers or tall structures within one mile of the proposed tower. There is one tower located approximately 1.2 miles from the proposed location. This site was evaluated by T-Mobile's RF Engineer and it was determined this site could not meet the coverage objectives. This site is discussed in the narrative by the RF Engineer and shown on plots which are attached to this application. T-Mobile currently occupies the remaining towers and structures within two miles of the proposed location. A map showing T-Mobile sites is attached.

This application complies with the intent of the Wireless Master Plan in the following manner:

- The area is zoned LC and is surrounded by mixed use. The highway to the north creates a natural buffer from the properties to the north.
- The tower will blend in with the highway light poles in the area.
- The structure will be partially obscured by trees to the south and the commercial building to the west.
- The tower is relatively short at 120'.
- Constructs a monopole that minimizes the mass
- Exceeds the required setbacks
- Will require no strobe lighting

This application meets or exceeds the criteria for new ground mounted structures and T-Mobile hopes Staff will recommend approval this application. The Master Plan requires towers of 120' to accommodate at least three users and HGMJ will construct a monopole that meets or exceeds this requirement. Please feel free to let me know if you have questions.

Sincerely,

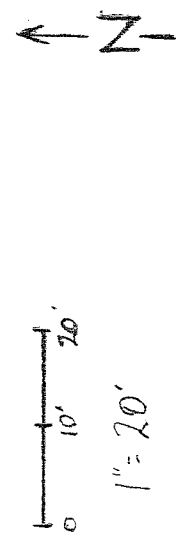
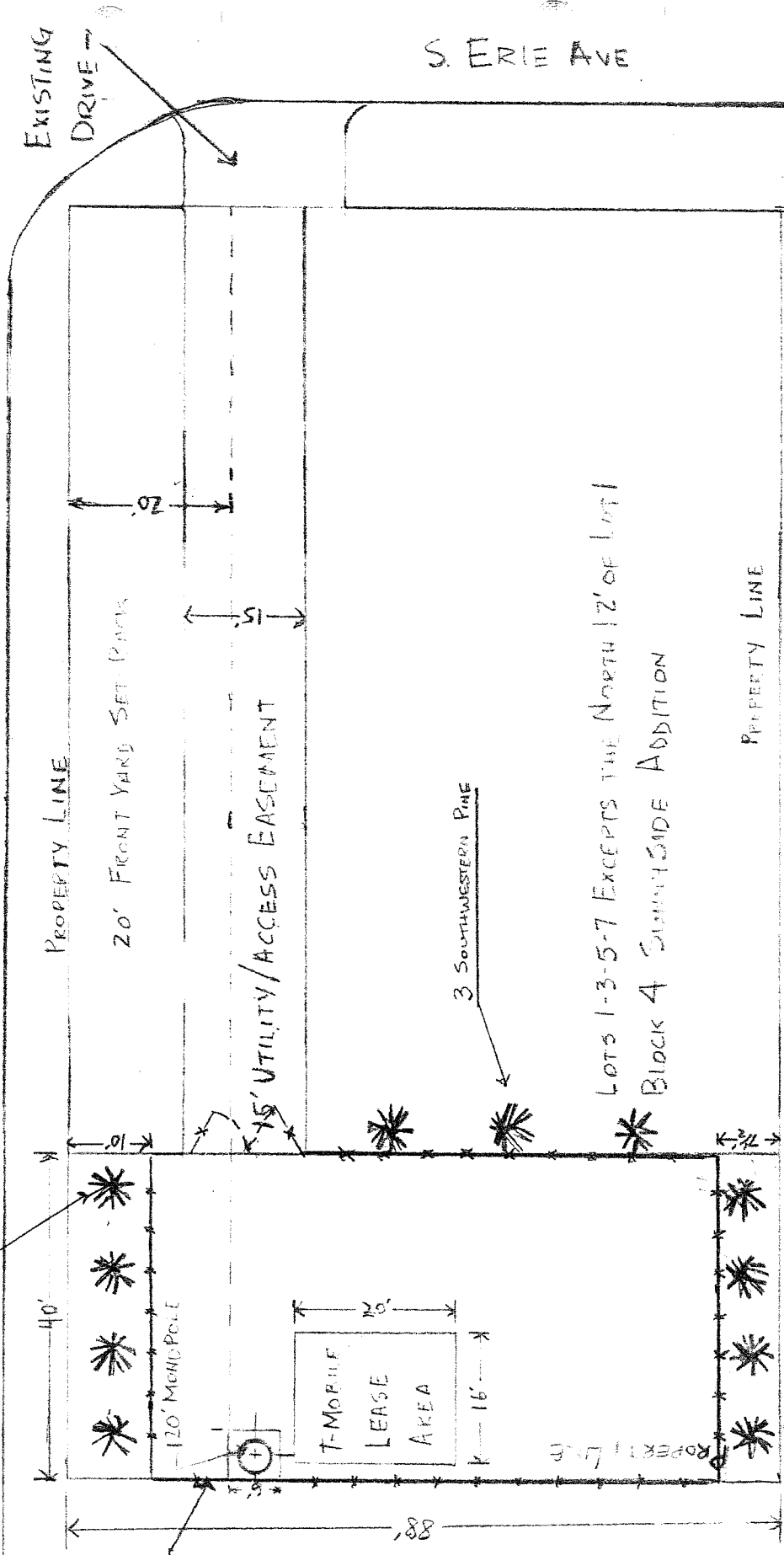


Greg Ferris

QTY	BOTANICAL NAME	COMMON NAME	SIZE
11	PINUS SCROBIPERMUS	SOUTHWESTERN PINE	MIN 5'

IRRIGATION - WATER FOR ESTABLISHMENT & MAINTENANCE OF PLANT MATERIALS WILL BE BY HOSE OR WATER TRUCK

4 SOUTHWESTERN PINE E. KELLOGG DRIVE



W102979 ORME/TADG  
LANDSCAPE PLAN

# APPLICATION

Case CON 2008-32

This form MUST be completed and filed at the Planning Department, Tenth Floor, City Hall, 455 N. Main St., Wichita, KS, 67202 in accordance with directions on the accompanying instruction sheet. AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED. Check the appropriate box below for type of application being submitted. A separate application form and filing fee is required for each application. A preapplication conference with the planning staff is recommended before filing this application.

## SECTION I

This property is located within: ☒ Wichita ☐ Sedgwick County (unincorporated)

Metropolitan Area Planning Commission:

- ☐ Zone Change: From zoning district: \_\_\_\_\_ to \_\_\_\_\_
- ☐ Planned Unit Development: ☐ Approval ☐ Amendment to PUD \_\_\_\_\_ ☐ Adjustment to PUD \_\_\_\_\_
- ☐ Community Unit Plan: ☐ Approval ☐ Amendment to CUP \_\_\_\_\_ ☐ Adjustment to CUP \_\_\_\_\_
- ☐ Protective Overlay: ☐ Approval ☐ Amendment to PO \_\_\_\_\_ ☐ Adjustment to PO \_\_\_\_\_
- ☒ Conditional Use: To allow: 120' Wireless Communication Facility zone district: LC  
☐ Adjustment to CU/CON No. \_\_\_\_\_
- ☐ Vacation of: \_\_\_\_\_ zone district: \_\_\_\_\_  
(Use a separate sheet for legal description, if necessary.)
- ☐ Administrative Permit: To allow: \_\_\_\_\_ foot high wireless communication facility: \_\_\_\_\_ zone district: \_\_\_\_\_
- ☐ Off-Site Billboard Sign within \_\_\_\_\_ feet of a residential lot/structure. zone district: \_\_\_\_\_

Board of Zoning Appeals:

- ☐ Variance: To allow: \_\_\_\_\_ zone district: \_\_\_\_\_
- ☐ Appeal of: \_\_\_\_\_ zone district: \_\_\_\_\_
- ☐ Zoning Adjustment: To allow: \_\_\_\_\_ zone district: \_\_\_\_\_
- ☐ Sign Code Adjustment: To allow: \_\_\_\_\_ zone district: \_\_\_\_\_

## SECTION II

- The application area is legally described as Lot(s) 1-3-5-7 E. N 1/2 of Lt 1 : Block(s) 4 Sunny Side Addition, (Wichita) Sedgwick County, KS. If appropriate, a metes and bounds description may be attached. Dec 14 1886
- The application area contains .08 acres.
- This property is located at (address) SW Corner of Erie Ave & Kellogg Dr. which is generally located at (relation to nearest streets) West of Hillside South of Kellogg
- We file this request for the following reasons: Construct a 120' Monopole for T-Mobile Central LLC to provide Cellular/PCS Service to the area
- County control number: 150275

CON 2008-32

(Continued)

6. The names of the owners of all property included in this application MUST be listed as applicants. Contract purchasers, lessees or others directly associated with the property may also be listed if they desire to be advised of the proceedings. (Use a separate sheet for additional applicants if needed.)

A. APPLICANT Richard L. Vicki J. Tede PHONE                       
 ADDRESS 505 Tennessee St #406, Memphis, TN 38103 ZIP CODE 38103  
 AGENT                      PHONE                       
 ADDRESS                      ZIP CODE                     

B. APPLICANT H&M J Properties LLC PHONE 316 312 3233  
 ADDRESS 8588 W 21st St. #200 ZIP CODE 67205  
 AGENT Greg Ferris Ferris Consulting - PHONE 316 516 0808  
 ADDRESS PO Box 573 ZIP CODE 67201

C. APPLICANT T-Mobile Central LLC offn George Wyndle PHONE 316-405-0007  
 ADDRESS 4533 Enterprise Dr. Oklahoma City, OK ZIP CODE 73128 (73128)  
 AGENT Cathy Ferris PHONE                       
 ADDRESS                      ZIP CODE                     

7. We acknowledge receipt of the instruction sheet explaining the method of submitting this application. We realize that this application cannot be processed unless it is completely filled in; is accompanied by a current abstractor's certificate as required in the instruction sheet; and is accompanied by the appropriate fee. We further certify that the foregoing information is true and correct to the best of our knowledge. We authorize unannounced inspections of the subject property by City and/or County staff for the purpose of collecting information to review and analyze this request. We acknowledge that the MAPC, Governing Body, or Board of Zoning Appeals shall have authority to impose such conditions as it deems necessary in order to serve the public interest and welfare.

Applicant's Signature \_\_\_\_\_ By Mark Nordsyke H&M J Properties LLC  
 Authorized Agent (If Any)

Applicant's Signature \_\_\_\_\_ By Mark Nordsyke  
 Authorized Agent (If Any)

Applicant's Signature \_\_\_\_\_ By \_\_\_\_\_  
 Authorized Agent (If Any)

The Petition must bear the signature(s) of the property owner(s). If an authorized agent signs on the owner's behalf, the agent shall sign his own name and attach the owner's written notarized authorization to this application.

**FOR OFFICE USE ONLY**

Map 5646A Zoning (N)            (S) LC (E) LC (W) B (MAPC/BZA) July 24 Township Midland  
 Council/Commission District II DAB II Sm. City PC             
 NA/HOA See TM  
 Date 6-16-08 Fee 525.00 Received By J. Me

**Required Documents:**

☒ Ownership List ☐ BZA Justification ☒ Legal Description ☐ Vacation Petition ☒ Site Plan ☒ Signs

## Agreement to Purchase

THIS AGREEMENT TO PURCHASE ("Agreement"), entered into on the 3RD day of MAY, 2008 by and between, HGMJ Properties LLC, a Kansas limited liability company or his/her/their assignee(s), hereinafter referred to as "Buyer", and Richard L. Tade and Vicki J. Tade, Individuals, Hereinafter referred to as "Seller".

1. **PROPERTY PURCHASED:** In consideration of the mutual promises herein contained, the Seller agrees to sell, and the Buyer agrees to buy, in accordance with the terms and conditions of this Agreement, the following described Real Property ("Property"), Situated in the City of Wichita, Sedgwick County, Kansas, and described as follows: **Lots 1-3-5-7 Except the North 12 ft of Lot 1 for Street Block 4, Sunny-Side Addition City of Wichita, Sedgwick County, State of Kansas AKA the southwest corner of Kellogg Drive and Erie, Wichita, KS**
2. **PRICE AND TERMS:** Buyer hereby agrees to pay for said Property the sum of [REDACTED] and [REDACTED] payable as follows:
  - A. A personal note in the amount of [REDACTED] is attached hereto as "Earnest Money" to apply toward the purchase price. Earnest Money shall be held in Escrow at a company agreed upon by both parties. In the event the offer is not accepted or if Seller defaults in the performance of this Agreement or if Buyer terminates this Agreement as hereafter provided, the Earnest Money shall be promptly returned to Buyer.
  - B. The Buyer agrees to pay [REDACTED] and no/100 Dollars [REDACTED] at Closing.
3. **EVIDENCE OF TITLE:** in the form of a title search and owner's policy of title insurance, will be furnished by Seller, and shall be subject to the approval of the Buyer. A preliminary binder shall be provided to Buyer, for his review and approval, 48 hours prior to closing.
4. **SELLER'S CERTIFICATION:** Seller certifies to Buyer that Seller has no knowledge of any substance, chemical or waste (collectively, "Hazardous Substance") on the Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation on the Property now or in the past. Seller further certifies to Buyer there are no pending orders or ordinances or resolutions that have been enacted authorizing work or improvements for which the Property may be assessed; and there are no City, County or State orders have been served upon him requiring work to be done or improvements to be made which have not been performed.
5. **INSPECTION and ACCESS:** Seller agrees that Buyer or Buyer's agent shall be allowed reasonable access to the Property to conduct inspection, survey, soil samples, etc. so long as Property is restored to its existing condition. Buyer assumes all responsibilities for Buyer's agents under this provision.
6. **CONVEYANCE AND CLOSING:** The closing of the sale will be on or before 12/31/2008 2008. At closing:
  - (1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Purchaser.
  - (2) Purchaser shall pay the Sales Price in good funds acceptable to the escrow agent.
7. **PRORATIONS:** There shall be prorated between Seller and Buyer as of Closing all real estate taxes and installments of assessments as shown on the latest available tax duplicate.
8. **CONDITION OF IMPROVEMENTS:** Seller agrees that on Possession, the Property shall be in the same condition as it is on the date of this Purchase Offer, except for ordinary wear and tear.
9. **DEFAULT:** It is expressly agreed that upon the event of any default or failure on the part of the Buyer, to comply with the terms and conditions of this Agreement, that Seller agrees to accept the EARNEST MONEY deposit with payment of the personal note as full liquidated damages. Upon default by the Seller to perform under this Agreement, all deposits and notes shall be returned to Buyer on demand, and Buyer shall not thereby waive any right or remedy he may have because of such refusal.
10. **SOLE CONTRACT:** The parties agree that this Agreement constitutes their entire agreement and that no oral or implied agreement exists. Any amendments to this Agreement shall be made in writing, signed by all parties and copies shall be attached to all copies of the original Agreement. The terms and conditions of this Agreement are to apply to and bind and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties. All provisions of this Agreement shall survive the closing.
11. **SPECIAL CONDITIONS:** The terms of this Agreement are subject to the following: (A.) The City of Wichita approves the rezoning of the property to Office Warehouse or less restrictive zoning that will allow the construction of a building to house Purchasers vehicles and equipment or the City of Wichita approves a Conditional Use Permit for a Wireless Communication Facility if Purchasers desires. (B) The Seller's signature on this contract represents the Seller's consent to the application of 11 (A). (C) If Purchaser has not made application per 11(A) within 30 days of the date this Agreement is executed by

both parties then Purchaser forfeits its rights under Section 11 and if the terms of this Agreement are not fulfilled Seller shall have the rights listed under Section 9 of this Agreement. (D) If Purchaser is denied either application by the City of Wichita then this Agreement then Buyer has the right to terminate this Agreement by notifying Seller within 10 days of the decision by the City of Wichita, of Buyer's intent to terminate this Agreement. Upon notice of termination by the Buyer under the provision of this Paragraph, Seller will return the Earnest Money to Buyer within 10 days and this Agreement shall be terminated.

12. **EXPIRATION:** This offer shall expire unless a copy hereof with Seller's written acceptance is delivered to Buyer or his Agent on or before 5:00 PM on ~~March 24, 2008~~ **MAY 7 2008**.
13. **LEGAL FEES:** The prevailing party in any legal proceeding related to this Agreement is entitled to recover reasonable attorney's fees and all costs of such proceeding incurred by the prevailing party.
14. **APPROVAL:** The undersigned Buyer has read, fully understands and approves the foregoing offer and acknowledges possession of a signed copy.

HGMJ Properties LLC By Mark Nardyke 5-5-08  
Buyer

8588 W. 21st #200 Wichita KS. 67205  
Buyer's Address:

5-5-08

Date: 3-15-08

#### ACCEPTANCE

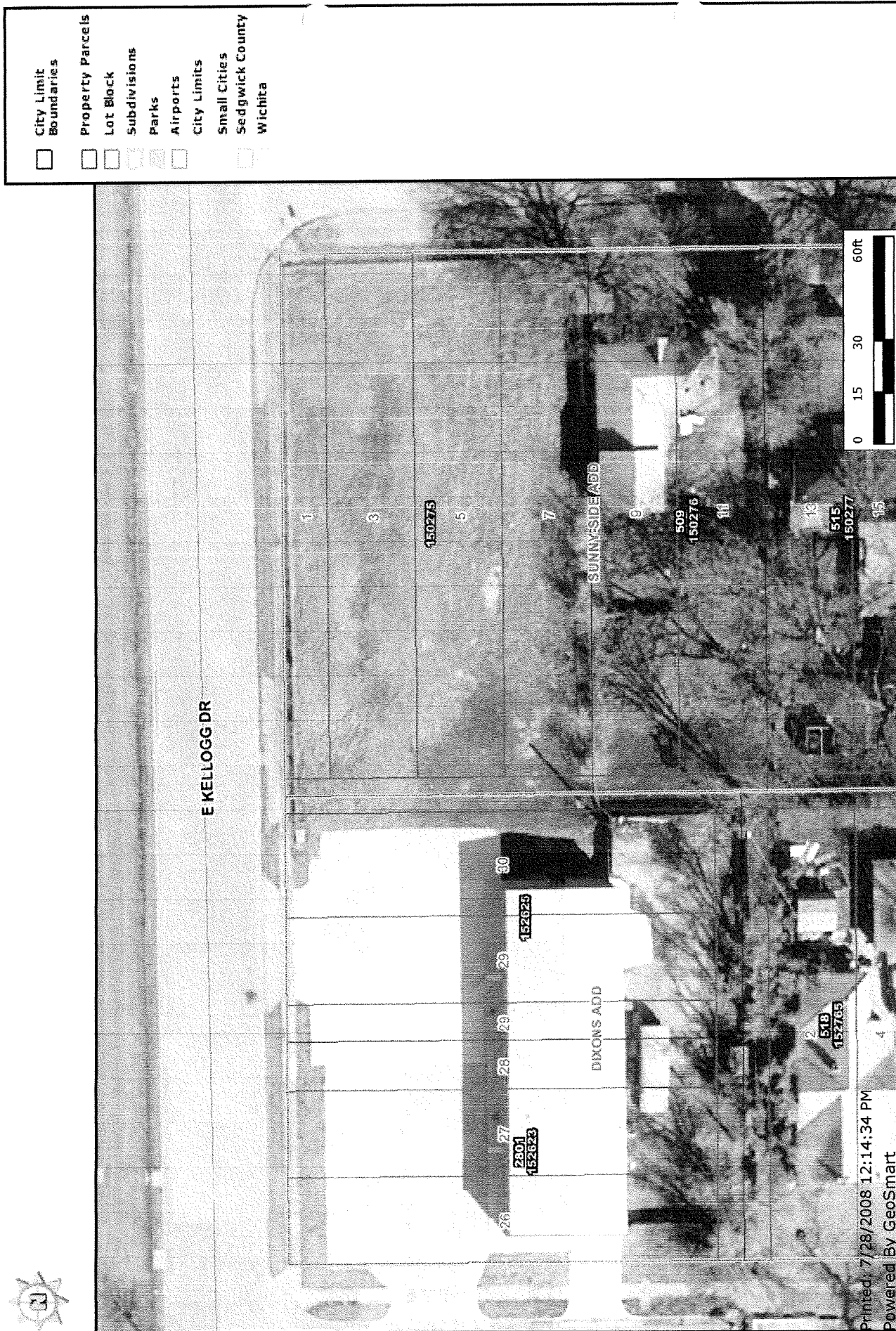
The undersigned Seller(s) has read, fully understands and verifies the above information as being correct and accepts the foregoing offer; agreeing to sell the herein described property on the terms and conditions herein specified and acknowledges receipt of a signed copy.

[Signature] 505 Tennessee St #400  
Seller Seller's Address  
Memphis TN 38103

[Signature]  
Seller  
Date: 5-3-08

Seller's Address





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Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



WICHITA, KANSAS.

SCALE: 1 IN. = 100 FT.





**INTEROFFICE  
MEMORANDUM**

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**TO:** MAPC Members  
**FROM:** LaShonda Porter, Neighborhood Assistant, District I  
**SUBJECT:** CON2008-00032  
**DATE:** August 11, 2008

On August 4, 2008, the District 1 Advisory Board heard the request for a conditional use permit for a wireless communication facility generally located south of Kellogg Drive, midway between Grove Street and Hillside Avenue, on the west side of Erie.

Staff noted that the Neighborhood Association and two neighbors had not been notified of the case due to staff having an outdated list for Neighborhood Associations and there being some discrepancies with the property owner's list provided by the title company. Staff has asked Neighborhood Assistants to update the Neighborhood Association list with most current information to avoid this issue in the future.

Members of the DAB had the following concerns 1) if strobe lights would be required on the pole; 2) how many residents protested the request; 3) how to convince K-Dot to co-locate the cell tower on the existing K-Dot pole; 4) what occurred with the notification process, since all residents within the required 200 ft notification area were not notified; 5) how many other cell towers existed in close proximity; 6) who would be responsible for the maintenance of the property since T-Mobile was leasing the land; and 7) how the tower would impact property values.

Residents in the area were in attendance were in opposition of the request. President of affected Neighborhood Association was in attendance and advised that here Neighborhood Association was not notified of the request and that they are definitely in opposition. Additionally two other residents identified that they were not notified and also opposed the request. The President of the Neighborhood Association noted that the tower would be a eye sore for the community and would not provide conformity to the surrounding properties. She noted that the screening was inappropriate and that would be a eyesore as well. She did note that the Neighborhood Association would support co-location but not the placement of a new tower at that location.

**Thompson made a motion to defer action and send back to the MAPC to allow for a meeting with Neighborhood Association and community within 30 days. Domotrovic 2<sup>nd</sup> the motion. Motion passed. (6:0)**

*\*Debra Miller-Stevens (MAPC Board Member) abstained from voting on this request.*

LaShonda Porter  
Neighborhood Assistant  
District 1

## EXCERPT OF JULY 24, 2008 MAPC HEARING

**Case No.: CON2008-32** – Richard and Vickie Tade (owners), T-Mobile LLC (applicant), Ferris Consulting, c/o Greg Ferris (agent) Request City Conditional Use request for a wireless communication facility in LC Limited Commercial zoning.

The West 50 feet of Lots 1, 3, 5 and 7, except the North 12 feet of Lot 1 for street, Block 4, Sunny-Side Addition to the City of Wichita, Sedgwick County, Kansas. Generally located south of Kellogg Avenue, midway between Grove Street and Hillside Avenue on the west side of Erie Avenue.

**BACKGROUND:** The applicant, T-Mobile Central, LLC, is seeking a Conditional Use to permit the construction of a 120-foot high, galvanized steel, monopole cell phone tower. The 50-foot (x) 80.5-foot LC Limited Commercial (“LC”) zoned tower site is located on the western 50 feet of Lots 1 (except the north 12 feet for street right-of-way, ROW), 3, 5 and 7, Block 4, Sunny-Side Addition. This is vacant land. The site abuts the south side of the US 54/Kellogg Street road system. The “Amended Wireless Communication Facility Ordinance” (adopted by the WCC 4-08-08 & BoCC 4-9-08), permits new wireless communication facilities 120 feet in height in the LC zoning district as an Administrative Permit, if the site is identified as a “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map” and it complies with the 1/1 compatibility height standards (Art IV, Sec IV-C, 5b). The site is not identified on the “Facility Map,” thus it is not eligible of an Administrative Permit, but it may be considered for a Conditional Use. It appears to meet the compatibility height standards

The applicant’s RF Engineer has provided (see attached letter #1) a letter that states that the proposed facility is needed to both provide, extend and improve phone service in this section of Wichita. The RF Engineer has also stated that the proposed tower will provide capacity relief for existing T-Mobile Towers in the area. The RF Engineer states that the high volume of use has caused the area to experience failed access, because of a lack of facilities in the general area. The wireless facilities map provided by the applicant shows the existing facilities in the area. There is a tower located northwest of the site at Kansas and 2<sup>nd</sup> Streets, a T-Mobile facility (the closet facility to the proposed site) located west of the site at Waterman and Ellis, a T-Mobile facility located east of the site around Lincoln and Oliver Streets, and another T-Mobile facility located southeast of the site around Harry Street and Vassar Street. The map does not show the recently approved CON2008-25, 150-foot T-Mobile Tower located southwest of the site in Linwood Park, south of Harry and west of I-135. Other than that the map is in general agreement with the case map generated by City IT. The applicant has provided current and desired coverage maps.

The agent has provided a letter that states that T-Mobile had approached K-DOT and proposed replacing an existing light pole in the US 54/Kellogg Street with a monopole that would allow them to attach their lights, but were rebuffed. The agent has also stated that T-Mobile had contacted the high raise condominium structure at the corner of Douglas Avenue and Rutan Street, but was told that they did not lease space to wireless carriers. The “Wireless Communication Plan” encourages contact with such public and private agencies as K-DOT, KTA and KG&E in regards to location on light standards, sign structures and electric support structures for new wireless communication facilities. It also encourages location on multi-story buildings.

The site plan shows the general area where the tower will be located it shows a 6-8-foot wooden fence around a 40-foot (x) 85-foot site, the area where T-Mobile is going to locate its equipment (“T-Mobile Lease Area), proposed landscaping, and a proposed 15-foot access and utility easement onto Erie Avenue.

It does not indicate if the easement has any type of all weather surface on it. The site plan shows no light poles, ground lighting, power poles, cabinets, equipment or buildings located within the fenced-in area.

The area around the site is developed as a mostly single-family residential neighborhood, tucked behind small local retail, some vacant land, a dance studio, a small office warehouse and a school. The nonresidential uses (built 1959, 1960 and 2004) are zoned LC and abut the US 54/Kellogg Street frontage street, which marks the north end of the area. There are several large light poles in the US 54/Kellogg ROW. The school (built 1917) is part of a PUD Planned Unit Development (“PUD”). The residential neighborhood (built mostly in the 1920s, but also in the 1930s and 1940s, with the oldest being built in 1885 and the newest in 2004) is zoned mostly TF-3 Duplex Residential (“TF-3”), with a few residences located in B Multi-family Residential (“B”), PUD and LC zoning.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation or interferes with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. The applicant has not provided any proposed lighting of the tower, except to say it will not have strobes. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the “Design Guidelines” of the “Wireless Communication Master Plan.” The proposed tower must allow co-location for three (3) other providers. The applicant has not indicated if the tower will have a triangular “top hat” antenna array. The UZC recommends antennas mounted flush to the support structure over triangular “top hat” antenna arrays, however it also recognizes that the triangular “top hat” antenna’s signal travels further than the flush mounted antennas, therefore reducing the number of needed towers.

**CASE HISTORY:** The Sunnyside Addition was filed with the Register of Deeds December 14, 1886. The platted alley, abutting the west side of the site, has been vacated.

**ADJACENT ZONING AND LAND USE:**

NORTH:	TF-3	US 54/Kellogg Street and frontage road, single-family residences
SOUTH:	LC, TF-3	single-family residences
EAST:	LC, TF-3	Vacant lots, duplex, single –family residences, local retail
WEST:	LC, TF-3	Office warehouse, single-family residences, City owned right-of-way

**PUBLIC SERVICES:** No municipally supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access (and proposes access)) to Erie Avenue, a paved two-lane residential street. It also abuts the south side of the US 54/Kellogg Street paved, two-lane frontage road. The US 54/Kellogg Street ROW is classified as a Freeway and Urban Expressway. The 2030 Transportation Plan shows no change to the current status of these streets.

**CONFORMANCE TO PLANS/POLICIES:** Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08) and its “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map”, the site is not identified on is not eligible of an Administrative Permit, but it may be considered for a Conditional Use.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan requires a Conditional Use for new undisguised ground mounted facilities

120 feet in height in the LC zoning district and requires that they comply with the compatibility setback standards; the site appears to meet those setback standards. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should:

- 1) preserve the pre-existing character of the area as much as possible. The tower site will be abutting US 54/Kellogg which has several tall light pole towers located in its ROW, which means the proposed tower will not be entirely out of character with the existing light poles being already established. The tower will also extend and improve phone service in this section of Wichita. The site is located within 105, 150 and 160 feet of three single-family residences, the closest is owned by the applicant and all are zoned LC;
- 2) Minimize the height, mass, or proportion. The tower is similar in height, mass and proportion to other T-Mobile towers in the area;
- 3) Minimize the silhouette; monopoles are favored over lattice type structures for up to 150-foot and antennas mounted flush to the support structure over triangular “top hat” antenna arrays. The 120-foot tower is a monopole, but if it uses a triangular “top hat” antenna arrays, the Plan recognizes that the triangular “top hat” antenna’s signal travels further than the flush mounted antennas, therefore reducing the number of needed towers;
- 4) Use colors, textures, and materials that blend in with the existing environment. The monopole tower will have a galvanized surface, which will blend into the sky more readily than red or white paint;
- 5) Conceal or disguise as a flagpole, clock tower, or church steeple. The tower does not meet this criteria, but the applicant did contact K-DOT to inquire about replacing an existing light tower with the proposed communication tower and allow lights to be placed on it to illuminate US 54/Kellogg;
- 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. There are existing mature trees in the immediate neighborhood around the site, plus the proposed landscaping and solid fencing will help to “hide” the site;
- 7) Be placed on walls or roofs of buildings. The application attempted to do this via contacting the manager of the high rise condominium structure at the corner of Douglas Avenue and Rutan Street, but was told that they did not lease space to wireless carriers;
- 8) Be screened through landscaping, walls, and/or fencing. Proposed landscaping and solid fencing will help to “hide” the site; and
- 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish.

**NOTE:** Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for “Urban Residential” development. The Urban Residential category includes all housing types found in the municipality. Entry into residential areas is typically the final part of the business plan of most personal wireless providers. The facilities’ maps generated by the applicant and City IT/GIS services show the existing facilities in the area, some of which are in residential areas, thus the proposed site is not introducing a new use to the large area.

**RECOMMENDATION:** Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a “monopole” design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 120 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation (including the need

or not for lighting) and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.

- F. The 0.08-acre tower site shall be developed in general conformance with the approved revised site and landscape plan. These plans must show dimension control, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a mostly single-family residential neighborhood, tucked behind small local retail, some vacant land, a dance studio, a small office warehouse and a school. The nonresidential uses (built 1959, 1960 and 2004) are zoned LC and abut the US 54/Kellogg Street frontage street, which marks the north end of the area. There are several large light poles in the US 54/Kellogg ROW. The school (built 1917) is part of a PUD Planned Unit Development ("PUD"). The residential neighborhood (built mostly in the 1920s, but also in the 1930s and 1940s, with the oldest being built in 1885 and the newest in 2004) is zoned mostly TF-3 Duplex Residential ("TF-3"), with a few residences located in B Multi-family Residential ("B"), PUD and LC zoning.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and is currently vacant. It could be developed as small retail, office or residential. The US 54/Kellogg frontage road provides limited access for retail, while at the same time makes it a possible site for a small multi-family development. Its close (separated by frontage road) proximity to US 54/Kellogg makes it less desirable for single-family residential. A Conditional Use may be granted to permit a wireless communication facility in the LC zoning district, while conforming to the guidelines of the Wireless Communication Plan as much as possible. The proposed facility conforms to most of the plan's guidelines.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on the single-family neighborhoods and businesses in the area should be minimized to a degree by the Conditional Use standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties, the closest being within (discounting the applicant's property with a residence on it) 150 feet of the site. The Wireless Plan does recognize that entry into residential areas is the final part of the business plan of most personal wireless service providers to replace wired phone service in customer's homes. The coverage map provided by the applicant shows the increased coverage and service to these homes in the area.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility appears to conform to the Location Guidelines of the

Wireless Communication Master Plan since there appears to be no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. It is always possible that other facilities may be presented as alternative/co-location sites during the public hearing, in which case the applicant will need to address those claims/opportunities for possible co-location. The proposed wireless communication facility mostly conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed along US 54 Kellogg ROW, where there are several tall light towers located in the ROW. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned TF-3 or more restrictive. The site appears to meet that standard.

5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. .

**BILL LONGNECKER**, Planning staff presented the staff report.

**MOTION:** To approve subject to staff recommendation.

**HENTZEN** moved, **HILLMAN** seconded the motion, and it carried (13-0).



**City of Wichita**  
**City Council Meeting**  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** CON2008-00032 – Conditional Use for a wireless communication facility on property zoned LC Limited Commercial (“LC”); generally located south of Kellogg Drive, midway between Grove Street and Hillside Avenue. (District I)

**INITIATED BY:** Metropolitan Area Planning Department

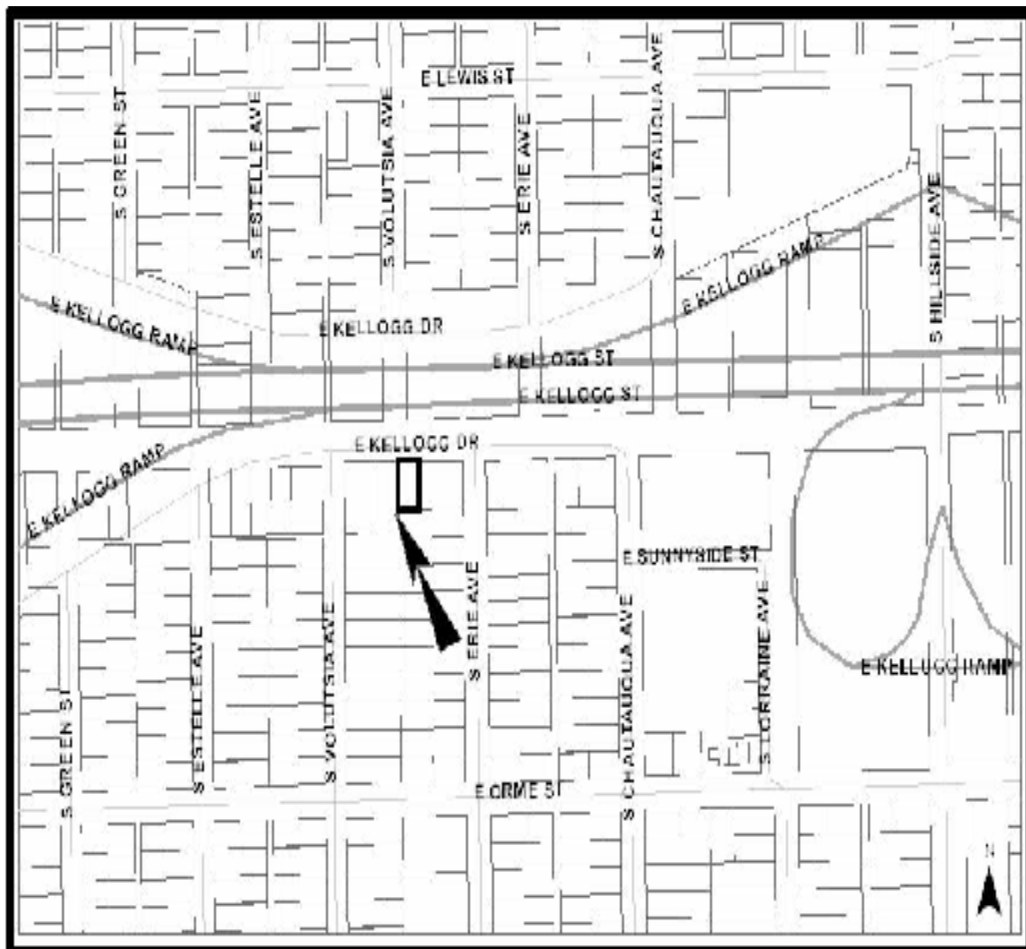
**AGENDA:** Planning (Non-Consent)

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**MAPC Recommendations:** Approve subject to conditions (13-0).

**MAPD Staff Recommendations:** Approve subject to conditions.

**DAB I Recommendation:** Approve subject to conditions (6-1)



**Background:** The applicant, T-Mobile Central, LLC, is seeking a Conditional Use to permit the construction of a 120-foot high, galvanized steel, monopole cell phone tower. The 50-foot (x) 80.5-foot LC Limited Commercial (“LC”) zoned tower site is located on the western 50 feet of Lots 1 (except the north 12 feet for street right-of-way, ROW), 3, 5 and 7, Block 4, Sunny-Side Addition. This is vacant land. The site abuts the south side of the US 54/Kellogg Street system. The “Amended Wireless Communication Facility Ordinance” (adopted by the WCC 4-08-08 & BoCC 4-9-08), permits new wireless communication facilities 120 feet in height in the LC zoning district as an Administrative Permit, if the site is identified as a “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map” and it complies with the 1/1 compatibility height standards (Art IV, Sec IV-C, 5b). The site is not identified on the “Facility Map,” thus it is not eligible for an Administrative Permit, but it may be considered for a Conditional Use. It appears to meet the compatibility height standards.

The applicant’s RF Engineer has provided (see attached letter #1) a letter that states that the proposed facility is needed to both provide, extend and improve phone service in this section of Wichita. The RF Engineer has also stated that the proposed tower will provide capacity relief for existing T-Mobile Towers in the area. The RF Engineer states that the high volume of use has caused the area to experience failed access, because of a lack of facilities in the general area. The wireless facilities map provided by the applicant shows the existing facilities in the area. There is a tower located northwest of the site at 2<sup>nd</sup> Street and Kansas, a T-Mobile facility (the closet facility to the proposed site) located west of the site at Waterman and Ellis, a T-Mobile facility located east of the site around Lincoln and Oliver Street and another T-Mobile facility located southeast of the site around Harry and Vassar Street. The map does not show the recently approved CON2008-25, 150-foot T-Mobile Tower located southwest of the site in Linwood Park, south of Harry and west of I-135. Other than that, the map is in general agreement with the case map generated by the City’s IT/IS Department. The applicant has provided current and desired coverage maps.

The agent has provided a letter that states that T-Mobile had approached KDOT and proposed replacing an existing light pole in US 54/Kellogg Street with a monopole that would allow them to attach their lights, but were rebuffed. The agent has also stated that T-Mobile had contacted the high rise condominium structure at the corner of Douglas Avenue and Rutan Street, but was told that they did not lease space to wireless carriers. The “Wireless Communication Plan” encourages contact with such public and private agencies as KDOT, KTA and KGE in regards to location on light standards, sign structures and electric support structures for new wireless communication facilities. It also encourages location on multi-story buildings.

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The area around the site is developed as a mostly single-family residential neighborhood, tucked behind small local retail, some vacant land, a dance studio, a small office warehouse and a school. The nonresidential uses (built 1959, 1960 and 2004) are zoned LC and abut the US 54/Kellogg frontage street, which marks the north end of the area. There are several large light poles in the US 54/Kellogg ROW. The school (built 1917) is part of a PUD Planned Unit Development (“PUD”). The residential neighborhood (built mostly in the 1920s, but also in the 1930s and 1940s, with the oldest being built in 1885 and the newest in 2004) is zoned mostly TF-3 Duplex Residential (“TF-3”), with a few residences located in B Multi-family Residential (“B”), PUD and LC zoning.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation or interferes with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. The applicant has not provided any proposed

lighting of the tower, except to say it will not have strobes. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than red or white paint, which meets the intent of the “Design Guidelines” of the “Wireless Communication Master Plan.” The proposed tower must allow co-location for three (3) other providers. The applicant has not indicated if the tower will have a triangular “top hat” antenna array. The UZC recommends antennas mounted flush to the support structure over triangular “top hat” antenna arrays, however it also recognizes that the triangular “top hat” antenna’s signal travels further than the flush mounted antennas, therefore reducing the number of needed towers.

**Analysis:** At the MAPC meeting held July 24, 2008, the MAPC voted (13-0) to recommend approval subject to staff recommendation. No citizens were present to testify. Subsequently, property owners filed protests against the MAPC decision, representing 47 percent of the property within 200 feet of the proposed Conditional Use.

The MAPC recommendation is as follows:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a “monopole” design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 120 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- F. The 0.08-acre tower site shall be developed in general conformance with the approved revised site and landscape plan. These plans must show dimension control, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

DAB I DAB I re-considered this case at their October 8, 2008 meeting and recommended approval with the conditions as recommended by staff and the MAPC.

WCC considered this case at their September 16, 2008 meeting and deferred action on it.

**Financial Considerations:** None.

**Goal Impact:** Promote Economic Vitality and Affordable Living.

**Legal Considerations:** The resolution has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

1. Concur with the findings of the MAPC and approve the Conditional Use (requires 3/4-majority vote to override protest),
2. Deny the Conditional Use request by making alternative findings, and override the MAPC's recommendation (requires 2/3-majority vote to override MAPC); or
3. Return the case to the MAPC for further consideration with a statement specifying the basis for the Council's failure to approve or deny the application (simple majority vote required).

RESOLUTION No. 08-511

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO PERMIT A WIRELESS COMMUNICATION FACILITY ON APPROXIMATELY 0.08 ACRES ZONED LC LIMITED COMMERCIAL ("LC"), GENERALLY LOCATED SOUTH OF KELLOGG AVENUE, MIDWAY BETWEEN GROVE STREET AND HILLSIDE AVENUE ON THE WEST SIDE OF ERIE AVENUE, WICHITA, SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975, AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

**SECTION 1.** That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, a Conditional Use to permit a wireless communication facility on 0.08 acres of property zoned LC Limited Commercial ("LC"), subject to the conditions listed below:

**Case No. CON2008-00032**

A Conditional Use to permit a wireless communication facility on 0.08 acres of property zoned LC Limited Commercial ("LC").

The West 50 feet of Lots 1, 3, 5 and 7, except the North 12 feet of Lot 1 for street, Block 4, Sunny-Side Addition to the City of Wichita, Sedgwick County, Kansas. Generally located south of Kellogg Avenue, midway between Grove Street and Hillside Avenue on the west side of Erie Avenue.

**SUBJECT TO THE FOLLOWING CONDITIONS:**

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 120 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- F. The 0.08-acre tower site shall be developed in general conformance with the approved revised site and landscape plan. These plans must show dimension control, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning

Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.

- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

**SECTION 2.** That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

**SECTION 3.** That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this  
date \_\_\_\_\_, 2008.

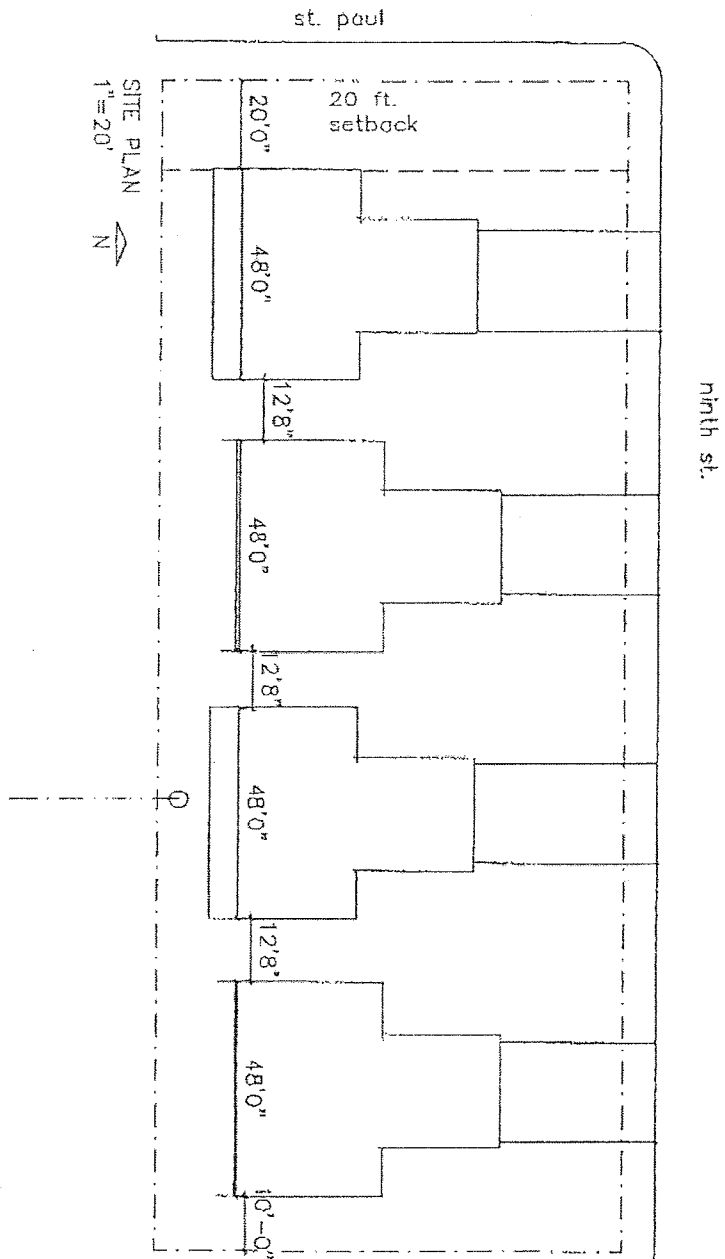
\_\_\_\_\_  
Carl Brewer, Mayor

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney



ZON2008-42 /  
CD 11 2008-36



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## INTEROFFICE MEMORANDUM

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**TO:** Metropolitan Area Planning Commission Members  
**FROM:** Terri Dozal, District VI Neighborhood Assistant  
**SUBJECT:** **ZON2008-42 and CON2008-36** zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential with a Conditional Use for multiple two-family residences on one lot; generally located south of 9th Street North and east of St Paul (918 N St. Paul).  
**DATE:** September 10, 2008

On Monday, September 8, 2008 the District VI Advisory Board (DAB) considered a zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential with a Conditional Use for multiple two-family residences on one lot; generally located south of 9th Street North and east of St Paul (918 N St. Paul).

The members were provided the MAPD staff report for review prior to the meeting. *Jess McNeely*, Planner presented the case background and reviewed the staff recommendation with members and the public.

One area residents stated he lives on the same size lot as the applicant is requesting for his units and says that six units would fit better on this size of property instead of eight.

\*\*\*\*\* **Action:** The District VI Advisory Board made a motion to recommend to the City Council to Approve (8-0) the zone change request subject to the number of units allowed is six (6) and **not** eight (8) as stated in the staff report and to fully pave the driveways.

**Board Members** questions/concerns included: 1) the size of the lot does not correlate with the UZC regulations and would be a better fit for six or seven units not eight; 2); will the driveway be located off of 9<sup>th</sup> street and all concrete; 3) is the applicant open to reduce the amount of units; 4) was proper notification given to the neighborhood; 5) will there be attached garages; 6) the properties on the north are they also zoned single-family and 7) with this amount of units cause a lot of on-street parking;

Please review this information when **ZON2008-42 and CON2008-36** is considered.

mtd



## EXCERPT OF THE AUGUST 21, 2008, MAPC HEARING

**Case No.: ZON2008-42 and CON2008-36** – Dennis Niedens (applicant) Request City zone change request from SF-5 Single-family Residential to TF-3 Two-family Residential and City Conditional Use for multiple duplexes in TF-3 Two-family Residential zoning on property described as:

Lots 63 and 64, on St. Paul Street, Sim Park Gardens, Sedgwick County, Kansas. Generally located South of 9th Street North and east of St. Paul (918 N. St. Paul).

**BACKGROUND:** The applicant requests TF-3 Two-family Residential (“TF-3”) zoning on a .6-acre site, currently zoned SF-5 Single-family Residential (“SF-5”). The site was developed with a single-family dwelling which was recently demolished. The applicant also requests a Conditional Use for multiple duplexes on one; the applicant intends to develop four duplexes with eight total units (see the attached site plan). The property is 25,480 square feet, with 260 linear feet of frontage along 9<sup>th</sup> Street. North and south of the application area are SF-5 zoned single-family residences. East of the site are GO General Office (“GO”) zoned duplexes and a convalescent care tower. West of the site is an SF-5 zoned church.

**CASE HISTORY:** The application area was platted as lot 63 and 64 of the Sim Park Gardens Addition in 1924.

### **ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-family residential
SOUTH:	SF-5	Single-family residential
EAST:	GO	Duplexes
WEST:	SF-5	Church

**PUBLIC SERVICES:** Both 9<sup>th</sup> Street North and St. Paul are classified as minor collector streets, and both have a 60-foot right of way at the application area. All other normal public services are available at the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area as “Urban Residential.” The Urban Residential category encompasses all development densities found in the municipality.

The Unified Zoning Code (UZO) permits multiple duplexes on one lot in TF-3 zoning with the approval of a Conditional Use. The UZO limits multiple dwellings on one lot in the TF-3 zone to 14.5 dwelling units per acre; this application is below that limit.

**RECOMMENDATION:** The immediate neighborhood is a mixture of single and multi-family development, and therefore not out of character with the proposed duplexes. Likewise, the proposed zone change is in complete conformance with the Land Use Guide of the Comprehensive Plan. Under the current SF-5 zoning the application area could be developed with up to five dwelling units, this zone change and conditional use request propose creating four duplexes with eight dwelling units.

MAPD has not been contacted by any members of the public regarding this case.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to the following conditions:

- A. APPROVE the zone change (ZON2008-42) to TF-3 Two-family Residential.
- B. APPROVE the Conditional Use Request (CON2008-36), subject to the following conditions:
  - 1. The site shall be limited to four duplexes and eight total dwelling units.
  - 2. The site shall be developed in general conformance with the approved site plan.
  - 3. Development on the site shall conform to all applicable codes to include zoning, building, landscape, housing, and health codes.
  - 4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: North and south of the application area are SF-5 zoned single-family residences. East of the site are GO zoned duplexes and a convalescent care tower. West of the site is an SF-5 zoned church. The proposed rezoning and development of duplexes is not out of character with nearby single and multi-family zoning and uses.
- 2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with single-family residential units as currently zoned.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning and two-family development should have no negative effects on surrounding single-family residences. The proposed duplexes will serve as a transitional buffer from the more intense multi-family development and convalescent care tower east of the site to the remaining neighborhood further to the west.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area as “Urban Residential”. The Urban Residential category encompasses all development densities found in the municipality. The proposed development conforms with the requirements of the Unified Zoning Code.
- 5. Impact of the proposed development on community facilities: The proposed duplex development should have no greater impact on community facilities than development that could take place under the current single-family zoning.

**JESS MCNEELY**, Planning Staff presented the Staff Report and reported that the DAB approved this request with a reduced number of units to six total dwelling units (from eight dwelling units requested on the application).

**FOSTER** asked about the buffering in the rear of the lot, and how there may only be 10 feet left in one spot relative to the site plan.

**MCNEELY** explained that the setback requirement in TF-3 zoning was twenty feet and that the proposal meets that setback requirement, as well as other conditions listed in the Staff Report. He said the

applicant must meet all the Unified Zoning Code requirements in order to develop the property, including landscaping.

**DENNIS NEIDENS, APPLICANT**, said he purchased the property a few months ago and demolished an old house that was in a bad state of repair. He said he attended the DAB VI meeting and agreed to reduce the site to three duplexes, instead of the originally requested four, in addition to the required landscaping and whatever else is required by code to screen the property to the south. He said they want to be a good neighbor; that Via Christi has some nice duplexes in the area and they want to continue that.

**MARNELL** clarified that the applicant was willing to build only three duplexes, when it was lawful and within regulations to build four units at this location simply because the DAB was trying to impose that requirement on him.

**NEIDENS** said he was trying to be a good neighbor and get along in the neighborhood even though he would prefer to build four units; he was willing to build three units.

**MARNELL** said he didn't know DAB was allowed to impose standards that are higher than the Unified Zoning Code.

**NEIDENS** said he didn't necessarily agree with the DAB request, but added that he would like to be a good neighbor and do a small, well managed duplex.

**MARNELL** asked the applicant if the MAPC granted the original application request, would he build three or four duplexes.

**NEIDENS** said obviously he would prefer to build four units.

**FOSTER** said he applauded **MR. NEIDEN'S** efforts because he felt in-fill projects were fantastic. He asked about the exterior improvements on the units such as patios and fences.

**NEIDENS** said although it was not a code requirement, they will screen and fence the units so they can have private yards for pets and small children

**MOTION:** To approve the original application for four duplexes subject to staff recommendation.

**MARNELL** moved, **HILLMAN** seconded the motion, and it carried (12-0).

**MILLER STEVENS** said she wanted to make a comment regarding the statement made regarding DAB Boards and the fact that we always follow code on this Commission. She said she took offense to those comments because the MAPC does not always follow code; that she has voted many times trying to protect neighborhoods when the MAPC overlooks the code because they don't like the code at the time. She said she doesn't think it has anything to do with the DAB boards which are established to be a voice of the people and she didn't think the MAPC should ignore them.

**MARNELL** stated that DAB Board's are advisory to the City Council not the Planning Commission. He said what she said mischaracterized what he said. He said DAB's were attempting to impose conditions that were in excess of the code.

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** ZON2008-42/CON2008-36 – Zone change to “TF-3” Two-family Residential and Conditional Use request for four duplexes (eight dwelling units); generally located south of 9<sup>th</sup> Street North and east of St. Paul. (District VI)

**INITIATED BY:** Metropolitan Area Planning Department

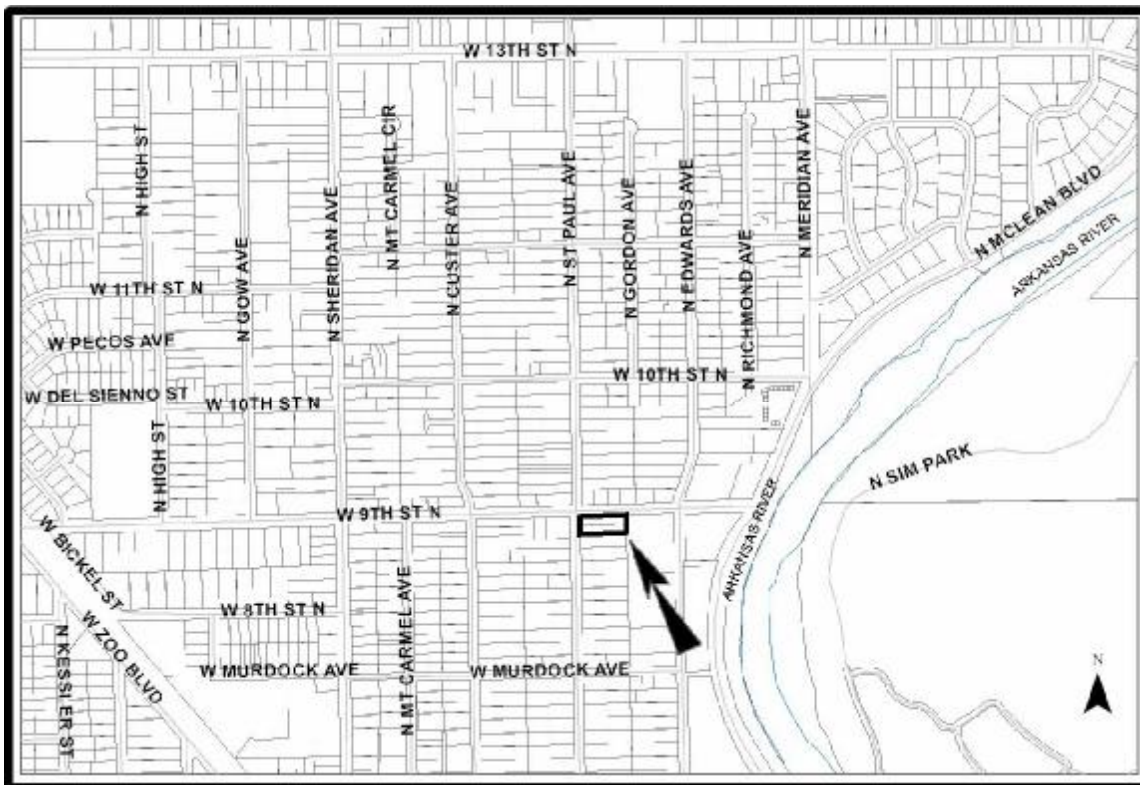
**AGENDA:** Planning (Non-consent)

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**MAPC Recommendations:** Approve, subject to staff recommendations (12-0).

**MAPD Staff Recommendations:** Approve the zone change and Conditional Use, subject to conditions.

**DAB Recommendations:** Approve, subject to staff recommendations (8-0) with a condition to limit the number of dwelling units to six.



**Background:** The applicant requests TF-3 Two-family Residential (“TF-3”) zoning on a .6 acre site currently zoned SF-5 Single-family Residential (“SF-5”). The site was developed with a single-family dwelling which was recently demolished. The applicant also requests a Conditional Use for multiple duplexes on one parcel; the applicant intends to develop four duplexes with eight total units (see the attached site plan). The property is 25,480 square feet, with 260 lineal feet of frontage along 9<sup>th</sup> Street. North and south of the application area are SF-5 zoned single-family residences. East of the site are GO General Office (“GO”) zoned duplexes and a convalescent care tower. West of the site is an SF-5 zoned church.

**Analysis:** DAB VI heard this request on September 10, 2008. Area residents and the DAB spoke about the size of the property and the appropriate number of units. DAB VI moved to approve (8-0) the request, subject to staff recommended conditions with an additional condition to limit the property to six units.

MAPC heard this request on September 11, 2008 and approved, subject to staff recommendations for eight total units (12-0). No members of the public spoke at the MAPC hearing, and no protests have been received.

**Financial Considerations:** None.

**Goal Impact:** Promote Economic Vitality.

**Legal Considerations:** The ordinance and resolution has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

1. Adopt the findings of the MAPC and approve the zone change and Conditional Use subject to the staff recommendations; authorize the first reading of the ordinance and publish the zone change ordinance; or
2. Adopt the findings of the MAPC and approve the zone change and Conditional Use subject to the staff recommendations with a change in conditions to limit the site to six dwelling units; authorize the first reading of the ordinance and publish the zone change ordinance; or
3. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

Published in The Wichita Eagle on \_\_\_\_\_

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON2008-42**

Request for Zone change from SF-5 Single-Family Residential District to TF-3 Two-family Residential for property described as:

Lots 63 and 64, on St. Paul Street, Sim Park Gardens, Sedgwick County, Kansas .

Generally located South of 9<sup>th</sup> Street North and east of St. Paul.

**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**ATTEST:**

\_\_\_\_\_  
Carl Brewer, Mayor

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

RESOLUTION No. 08-512 **DAB VI RESOLUTION**

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO MULTIPLE DUPLEXES ON ONE PARCEL ON .3 ACRES ZONED TF-3 TWO-FAMILY RESIDENTIAL SUBJECT TO CONDITIONS, LOCATED SOUTH OF 9<sup>TH</sup> STREET NORTH AND EAST OF ST. PAUL IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975, AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

**SECTION 1.** That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, a Conditional Use to permit multiple duplexes on one parcel on .3 acres zoned TF-3 Two-family Residential, subject to the conditions listed below:

**Case No. CON2008-36**

A Conditional Use to permit multiple duplexes on one parcel on .3 acres zoned TF-3 Two-family Residential.

Lots 63 and 64, on St. Paul Street, Sim Park Gardens, Sedgwick County, Kansas.  
Generally located south of 9<sup>th</sup> Street North and east of St. Paul.

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The site shall be limited to three duplexes and six total dwelling units.
2. The site shall be developed in general conformance with the approved site plan.
3. Driveways on the site shall be paved.
4. Development on the site shall conform to all applicable codes to include zoning, building, landscape, housing, and health codes.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

**SECTION 2.** That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

**SECTION 3.** That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date \_\_\_\_\_, 2008.

\_\_\_\_\_  
Carl Brewer, Mayor

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

RESOLUTION No. 08-512 **MAPC RESOLUTION**

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO MULTIPLE DUPLEXES ON ONE PARCEL ON .3 ACRES ZONED TF-3 TWO-FAMILY RESIDENTIAL SUBJECT TO CONDITIONS, LOCATED SOUTH OF 9<sup>TH</sup> STREET NORTH AND EAST OF ST. PAUL IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975, AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

**SECTION 1.** That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, a Conditional Use to permit multiple duplexes on one parcel on .3 acres zoned TF-3 Two-family Residential, subject to the conditions listed below:

**Case No. CON2008-36**

A Conditional Use to permit multiple duplexes on one parcel on .3 acres zoned TF-3 Two-family Residential.

Lots 63 and 64, on St. Paul Street, Sim Park Gardens, Sedgwick County, Kansas.  
Generally located south of 9<sup>th</sup> Street North and east of St. Paul.

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The site shall be limited to four duplexes and eight total dwelling units.
2. The site shall be developed in general conformance with the approved site plan.
3. Development on the site shall conform to all applicable codes to include zoning, building, landscape, housing, and health codes.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

**SECTION 2.** That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

**SECTION 3.** That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date \_\_\_\_\_, 2008.

\_\_\_\_\_  
Carl Brewer, Mayor

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:





**City of Wichita**  
**City Council Meeting**  
November 4, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** ZON2001-00053 –Zone change from SF-5 Single-Family Residential to LI Limited Industrial with a restrictive covenant to limit uses and modify development standards. Generally located south of 45<sup>th</sup> Street North and west of Webb Road (4211 N. Webb Road). District II

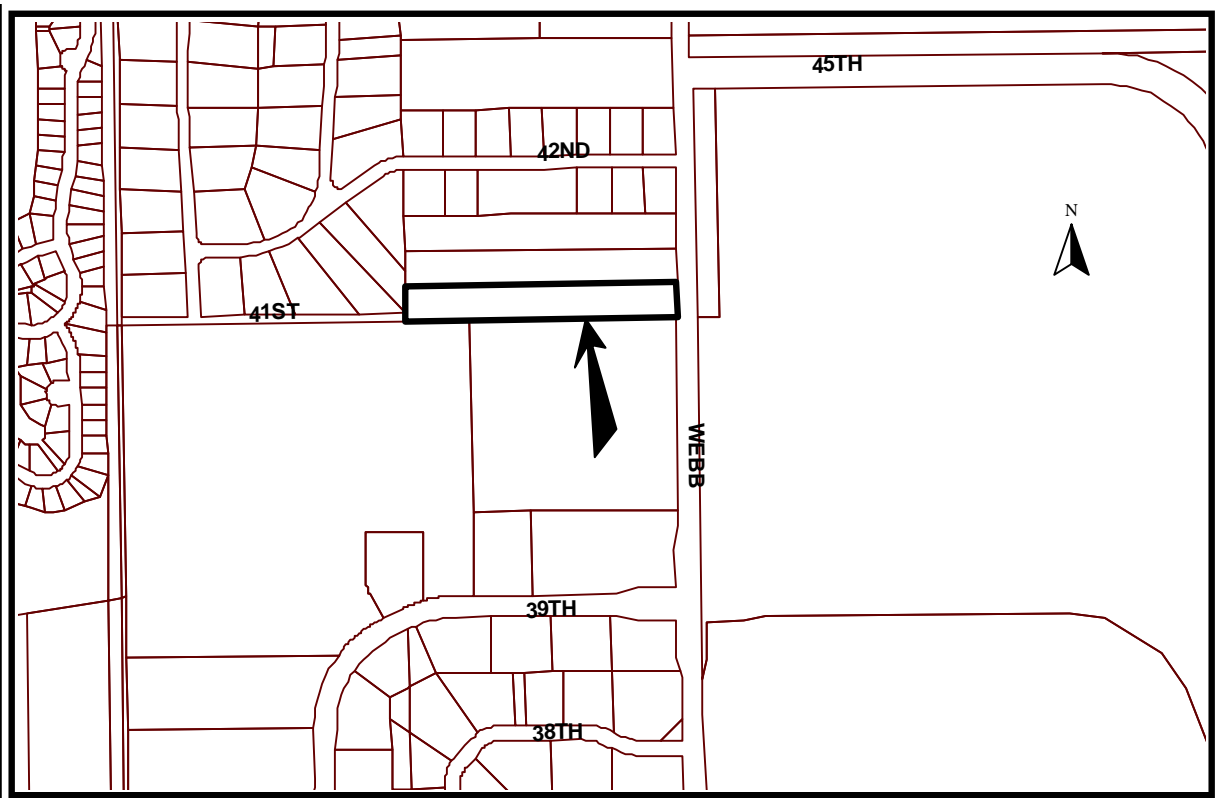
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**MAPC Recommendation:** Approve, subject to staff recommendations (12-0).

**Staff Recommendation:** Approve



**Background:** On October 2, 2001, the City Council approved a zone change request from “SF-5” Single-Family Residential to “LI” Limited Industrial with a restrictive covenant to limit uses and modify development standards on property generally located south of 45<sup>th</sup> Street North and west of Webb Road at 4211 N. Webb Road. Approval of the request was subject to the condition of platting the property within one year. An application to plat the property was approved by the Metropolitan Area Planning Commission on March 21, 2002. Three one-year extensions and one two-year extension of time to complete platting have been granted. The property is now platted, and all other required conditions have been met. The zone change ordinance has not been read, and now requires a first reading in order to publish the ordinance.

**Analysis:** Staff recommends that the City Council approve the first reading of the zone change ordinance, and instruct the City Clerk to publish the ordinance.

**Financial Considerations:** None.

**Goal Impact:** Promote Economic Vitality.

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

1. Adopt the findings of the MAPC and approve the zone change subject to staff recommendations; authorize the first reading of the ordinance and publish the zone change ordinance; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

ORDINANCE NO. 48-112

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON2001-00053**

Request for zone change from "SF-5" Single-Family Residential to "LI" Limited Industrial, described as:

Part of Lots 2, 3, and 4, Block 1, and Reserve B, Webb Business Park, An Addition to Wichita, Sedgwick County, Kansas described as follows: Commencing at the East Quarter Corner, Section 29, Township 26 South, Range 2 East of the Sixth Principle Meridian; Thence Bearing S88deg59'40"W, a distance of 1,261.63 feet; Thence Bearing N01deg03'44"W, a distance of 165.20 feet; Thence Bearing N89deg10'39"E, a distance of 1,261.25 feet; Thence Bearing S01deg12'14"E, a distance of 161.19 feet to the Point of Beginning. Generally located south of 45<sup>th</sup> Street North and west of Webb Road.

**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

**ADOPTED AT WICHITA, KANSAS,** \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Carl Brewer, Mayor

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

**City of Wichita  
City Council Meeting  
November 4, 2008**

**TO:** Mayor and City Council

**SUBJECT:** VAC2008-00026 Request to vacate a portion of a platted drainage and utility easement; generally located between US 54 and Lincoln Street and west of 143<sup>rd</sup> Street East. (District II)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Approve.

**MAPC Recommendation:** Approve (unanimously).

**Background:** The applicant is requesting consideration for the vacation of the west 10 feet of the east 30 feet of Lot 23, Block 1, Clear Creek Addition. Within the east 30 feet of Lot 23, west to east, there is a platted 20 foot drainage and utility easement, a platted 5 foot wall easement and a platted 5 foot utility easement. The applicant proposes vacation of the west 10 feet of the 20 foot drainage/utility easement to allow a larger house on the lot. There appears to be a portion of a sewer and a manhole in the southern portion of the multiple platted easements; the applicant proposes to retain this portion of the easement. There are no utilities, water or sewer in the described portion of the platted easement. The Clear Creek Addition was recorded with the Register of Deeds on May 29, 2003.

**Analysis:** The MAPC voted (8-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

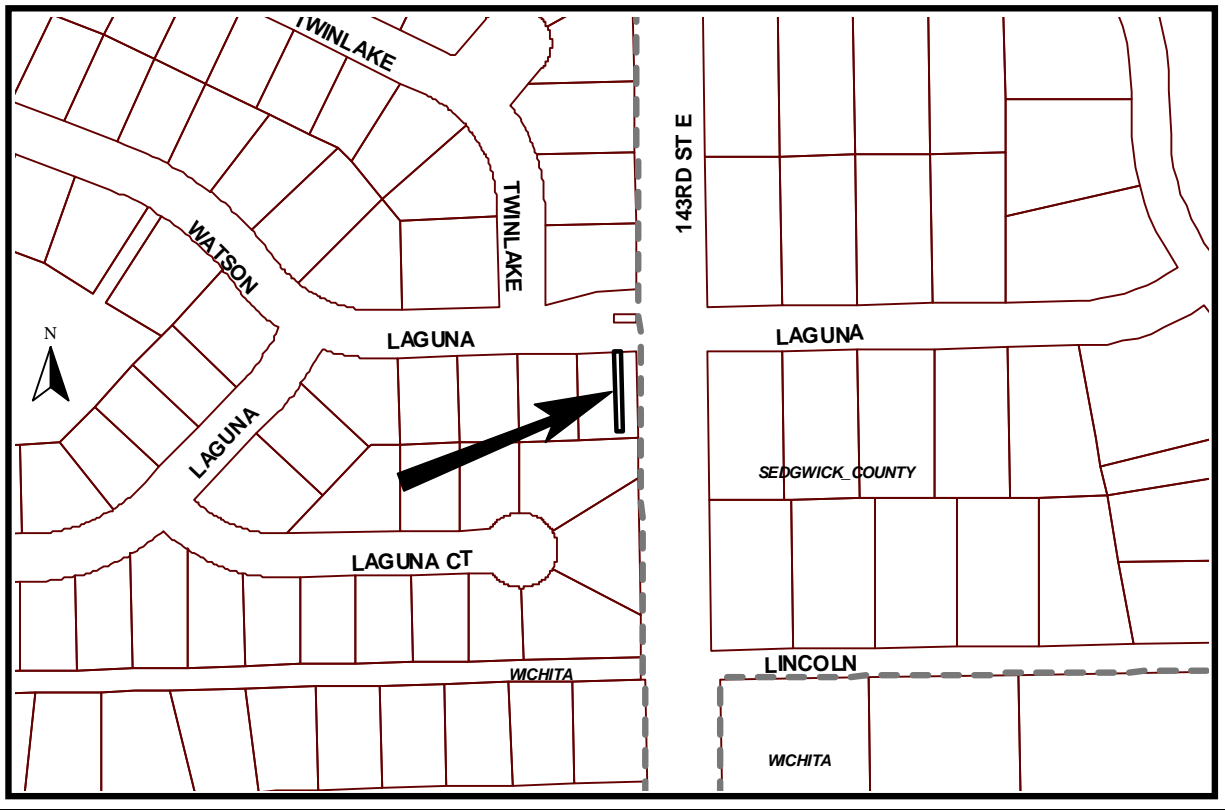
**Financial Considerations:** None.

**Goal Impact:** Ensure efficient infrastructure.

**Legal Considerations:** A certified copy of the Vacation Order will be recorded with the Register of Deeds.

**Recommendation/Actions:** Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

**Attachments:** None.



City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** VAC2008-00027 Request to vacate a portion of a platted setback; generally located approximately ½ mile north of 47<sup>th</sup> Street South and west of K-15. The site is located in Sedgwick County and within the City of Wichita's three-mile ring subdivision jurisdiction. (BoCC District 5)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Approve.

**MAPC Recommendation:** Approve (unanimously).

**Background:** There is a portion of the primary residence encroaching 6 feet into the platted 20 foot front setback. The zoning of the subject site is SF-5 Single-family Residential ("SF-5"). The Unified Zoning Code (UZC) requires a minimum of a 25 foot front yard setback for the SF-5 zoning district. If this was not a platted setback, the applicant could have applied for an Administrative Adjustment. This would reduce the SF-5 zoning district's 25 foot front yard setback by 20% or five feet, resulting in a 20 foot setback, which is the site's platted front setback. The requested vacation can only reduce the platted setback to 20 feet. Further reduction of the setback would require a variance. The applicant has filed a request for a variance from the Board of Zoning Appeals for a 14 foot building setback (BZA2008-29). There are no utilities within the described portion of the platted setback. The Oaklawn Subdivision was recorded with the Register of Deeds on December 5, 1951. The site is located in Sedgwick County, but within the City of Wichita's 3-mile ring subdivision jurisdiction, thus the 3-mile ring process will apply.

**Analysis:** The MAPC voted (9-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed. Because this vacation case is located in Sedgwick County, but within the City of Wichita's three-mile ring subdivision jurisdiction, consideration and recommendation by the Wichita City Council and consideration and final action by the Sedgwick County Board of County Commissioners is required.

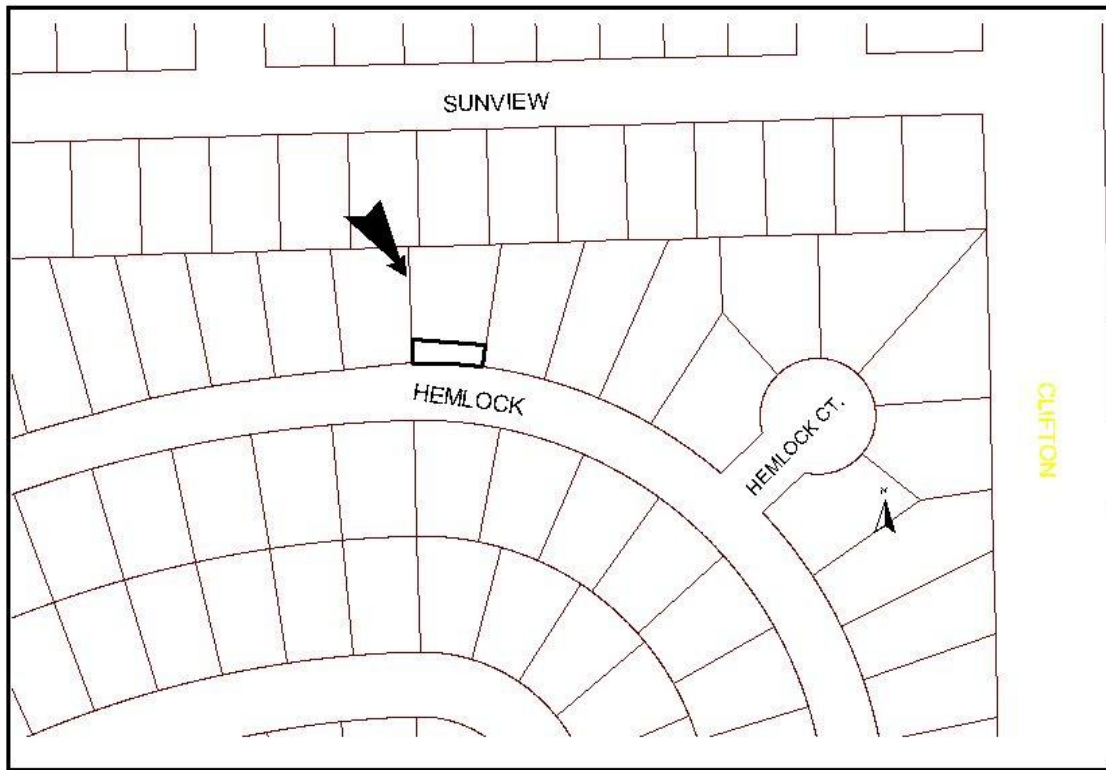
**Financial Considerations:** None.

**Goal Impact:** Ensure efficient infrastructure.

**Legal Considerations:** A certified copy of the Vacation Order will be recorded with the Register of Deeds.

**Recommendation/Actions:** Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

**Attachments:** None.





**City of Wichita**  
**City Council Meeting**  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** VAC2008-00028 Request to vacate a portion of a platted setback; generally located north of Harry Street and east of I-135.  
(District I)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

---

**Staff Recommendation:** Approve.

**MAPC Recommendation:** Approve (unanimously).

**Background:** The applicant proposes to vacate 12 feet of the platted 40 foot front yard setback, resulting in a 28 foot building setback. The zoning of the subject site (Lot 8, Block 15, Schweiters 9<sup>th</sup> Addition, 2245 Aloma Street) is TF-3, Two-family Residential ("TF-3"). The Unified Zoning Code (UZC) requires a minimum of a 25 foot front yard setback for the TF-3 zoning district. If this was not a platted 40 foot setback, the applicant could have obtained a building permit since the proposed location of the structure/carport is inside of the UZC's 25 foot front yard setback for the TF-3 zoning district. There are not any utilities, manholes, sewer or water lines within the described portion of the platted setback. The Schweiter's 9<sup>th</sup> Addition was recorded with the Register of Deeds on November 10, 1941.

**Analysis:** The MAPC voted (8-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

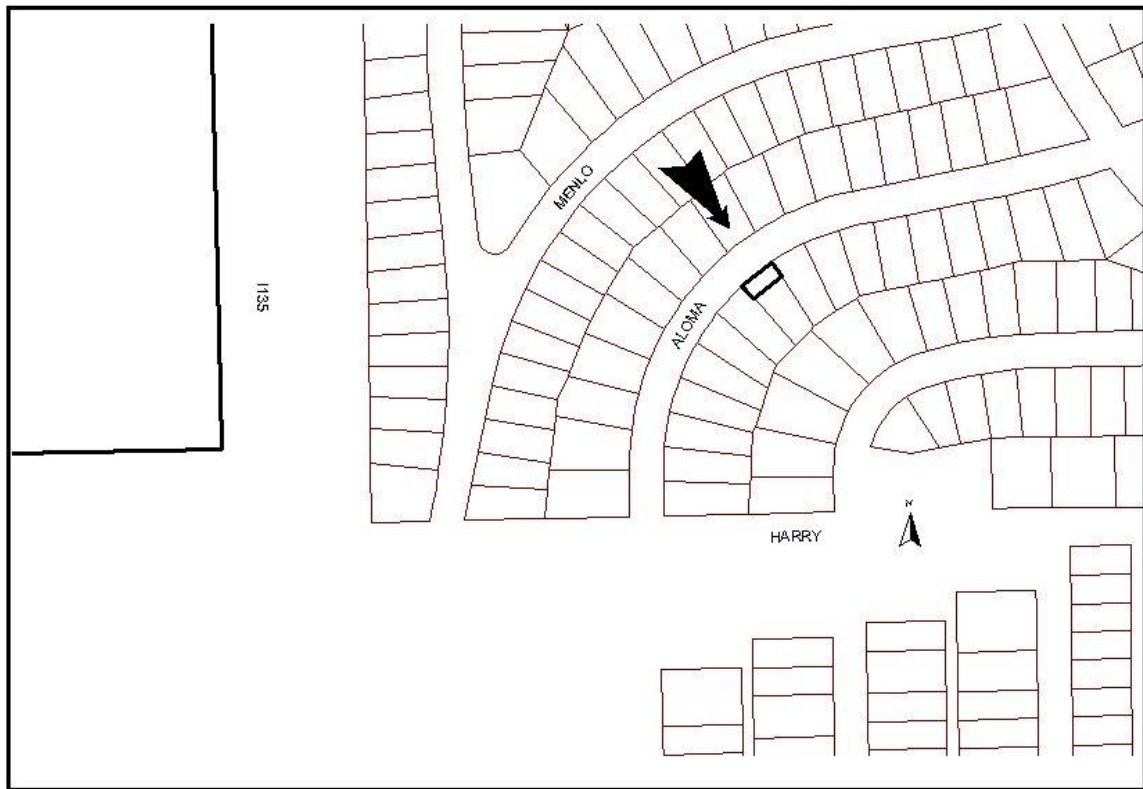
**Financial Considerations:** None.

**Goal Impact:** Ensure efficient infrastructure.

**Legal Considerations:** A certified copy of the Vacation Order will be recorded with the Register of Deeds.

**Recommendation/Actions:** Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

**Attachments:** None.



City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Wichita Airport Authority

**SUBJECT:** Midfield Road Duct Bank, Phase I  
Mid-Continent Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

---

**Recommendation:** Approve the project and budget.

**Background:** This work is identified in the Capital Improvement Program as utility improvements. In order to provide reliable electrical and communication services to airport tenants the utility system needs duct bank improvements. Future phases will expand and extend duct banks built under this phase.

**Analysis:** The electrical system that feeds a portion of the airport campus has become unreliable and is in need of replacement and upgrade to support new development. Additionally, the communications system will be extended and expanded to support new development.

**Financial Considerations:** A budget of \$2,600,000 is established for the project and it will be funded with General Obligation bonds paid for entirely with Airport Revenue.

**Goal Impact:** The Airport's contribution to the economic vitality of Wichita is promoted through infrastructure improvements to allow uninterrupted airport services to be provided.

**Legal Considerations:** None.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the project and capital budget.

**Attachments:** None.

LANDLORD ESTOPPEL

November \_\_\_\_\_, 2008

SolutionsBank  
Overland Park Branch  
7401 W. 135<sup>th</sup> Street  
Overland Park, KS 66223-1203

Re: Lease dated June 5, 2007 (the "Lease") by and between Wichita Airport Hotel Associates, L.P., as tenant ("Tenant"), and The Wichita Airport Authority of the City of Wichita, Kansas, as landlord ("Landlord"), attached hereto as Exhibit "A" incorporated herein and made a part hereof for all purposes.

Ladies and Gentlemen:

Landlord understands that SolutionsBank ("Lender") intends to make a \$12,000,000.00 loan to Tenant (the "Loan") to be secured by a Leasehold Mortgage covering the Tenant's right, title and interest in and to the Lease (the "Leasehold Estate"). In connection with the foregoing, Landlord does hereby certify and agree to Lender as follows:

(a) The Lease is in full force and effect; a true and correct copy of the Lease is attached hereto as Exhibit "A"; and except as may be attached hereto as a part of Exhibit "A" there are no amendments or modifications of any kind to the Lease; and Landlord has not given Tenant any notice of termination thereunder;

(b) No uncured default, event of default, or breach by Tenant exists under the Lease, and to Landlord's knowledge no facts or circumstances exist that, with the passage of time, will or could constitute a default, event of default, or breach under the Lease. Landlord has made no claim against Tenant alleging Tenant's default under the Lease;

(c) The "Rent Commencement Date" (as defined in Sec. 3 of the Lease) is June 5, 2007 and shall expire on May 31, 2030. Subject to the terms and conditions of the Lease, Tenant has the right and option to extend the term of the Lease for two (2) successive terms of ten (10) years each from and after May 31, 2030 and one (1) additional term of seven (7) years from and after June 1, 2050 to May 31, 2057.

(d) Landlord consents to Lender filing the Leasehold Mortgage with the real property records in Sedgwick County in order for Lender to perfect a lien in the Leasehold Estate. Lender may enforce the Leasehold Mortgage in any lawful way.

(e) Lender shall not be considered or become liable to Landlord as an assignee of the Lease, or otherwise, until such time as such Lender shall by foreclosure (power of sale) or other lawful proceedings acquire the rights, interest and estate of Tenant under the Lease.

Landlord acknowledges and agrees that Tenant and Lender shall be entitled to rely on Landlord's certifications and agreements set forth herein. When used herein, the term "Lender" refers to Lender and to any successors and assigns of Lender.

IN WITNESS WHEREOF, Landlord has executed this instrument this \_\_\_\_ day of November, 2008.

"LANDLORD"

The Wichita Airport Authority of the City of  
Wichita, Kansas

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: 2173 Air Cargo Road  
P.O. Box 9130  
Wichita, KS 67277-0130

Following recording please return to:

L. Dale Ward

Hinkle Elkouri Law Firm L.L.C.

8621 E. 21<sup>st</sup> St. N., Suite 200

Wichita, KS 67206

### MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is made and entered into as of the \_\_\_\_ day of November 2008, by and between THE WICHITA AIRPORT AUTHORITY OF THE CITY OF WICHITA, KANSAS (herein "Landlord"), and WICHITA AIRPORT HOTEL ASSOCIATES, L.P., a Kansas limited partnership (herein "Tenant").

WITNESSETH THAT:

WHEREAS, Landlord and Tenant entered into one certain Lease (herein the "Lease") dated June 5, 2007, wherein Landlord leased to Tenant and Tenant rented from Landlord certain land (herein the "Land") located in Wichita, Sedgwick County, Kansas, which Land is more fully described on Exhibit A, which is attached hereto and made a part hereof by this reference, together with all improvements located thereon (herein collectively the "Project"); and

WHEREAS, the parties now desire to enter into this Memorandum of Lease for the purpose of placing of public record the agreement of the parties.

NOW THEREFORE, in consideration of the foregoing recitations, the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Term. Landlord leases to Tenant, upon and subject to the terms and conditions of the Lease, the Project, for the period commencing on June 5, 2007 and terminating on May 31, 2030.

2. Extension Options. Subject to the terms and conditions of the Lease, Tenant has the right and option to extend the term of the Lease for two (2) successive terms of ten (10) years each from and after May 31, 2030 and one (1) additional term of seven (7) years from and after June 1, 2050 to May 31, 2057.

3. Recording. This Memorandum of Lease may be filed of public record by either party hereto. Upon such filing, it is intended to serve as constructive notice of the terms and conditions of the Lease and the rights of the parties thereunder.

4. Prior Memorandum. The Memorandum of and Notice of Restated and Amended Lease filed of record in the Register of Deeds Office, Sedgwick County, Kansas on February 26, 1992 on Film 1227, Page 347 is terminated and no longer of effect and the Land and Project are hereby fully released and discharged from such Memorandum of and Notice of Restated and Amended Lease.

5. Binding Effect. This Memorandum of Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. If any of the terms or provisions of this Memorandum of Lease conflict with the terms or provisions of the Lease, the terms and provisions of the Lease shall control. A copy of the Lease will remain on file with the Wichita Airport Authority at 2173 Air Cargo Road, Wichita, Kansas, 67209.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Lease to be executed as of the day and year first above written.

LANDLORD:

THE WICHITA AIRPORT AUTHORITY OF THE CITY OF WICHITA, KANSAS

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

TENANT:

WICHITA AIRPORT HOTEL ASSOCIATES, L.P.

By: Innco Properties, L.P., its General Partner

By: Innco Investment Company, its General Partner

By: \_\_\_\_\_  
Roland W. Samples, President

[illegible]

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of \_\_\_\_\_, 2008.

My Appointment Expires:

[illegible]

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of \_\_\_\_\_, 2008.

My Appointment expires:



## EXHIBIT A

### LEGAL DESCRIPTION

#### Tract A:

That portion of Reserve F, in Wichita Municipal Airport Addition to Wichita, Kansas, Sedgwick County, Kansas, described as: Beginning at point 30 feet right of Sta. 56+11.18 of the proposed Midfield Road, said point being 2727.71 feet south and 565.77 feet west (Grid System) of the Southeast corner of Section 28, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence bearing South 19 degrees 20' 14" West along the South right-of-way line of said Midfield Road a distance of 330 feet; thence bearing South 70 degrees 39' 46" East a distance of 582.97 feet to a point on a curve to the right having a radius of 894.13 feet; thence along said curve to the right, through a central angle of 27 degrees 09' 55", with a chord bearing South 47 degrees 57' 57.5" West, an arc distance of 423.93 feet to the point of compound curvature of a curve to the right having a radius of 308.43 feet; thence along said curve to the right, through a central angle of 47 degrees 48' 25", an arc distance of 257.35 feet; thence bearing North 70 degrees 38' 40" West a distance of 320.40 feet to the point of curvature of a curve to the right having a radius of 374.0 feet; thence along said curve to the right, through a central angle of 64 degrees 44' 39", an arc distance of 422.62 feet to an intersection of said curve and a line bearing North 19 degrees 21' 20" East; thence bearing North 19 degrees 21' 20" East a distance of 277.14 feet; thence bearing North 32 degrees 29' 22" East a distance of 316.34 feet; thence bearing South 70 degrees 39' 46" East a distance of 433.31 feet to the point of beginning.

#### Tract B:

That portion of Reserve F, in Wichita Municipal Airport Addition to Wichita, Kansas, Sedgwick County, Kansas, described as: Commencing at a point 30 feet right of STA. 56+11.18 of the proposed Midfield Road, said point being 2727.71 feet South and 565.77 feet West (Grid System) of the Southeast Corner of Section 28, T27S, R1W, of the Sixth Principal Meridian, Sedgwick County, Kansas; thence bearing S 19 degrees 20' 14" W along the south right-of-way line of said Midfield Road a distance of 330 feet; thence bearing S 70 degrees 39' 46" E a distance of 582.97 feet to a point on a curve to the right having a radius of 894.13 feet; thence along said curve to the Right, through a central angle of 27 degrees 09' 55", with a chord bearing S 47 degrees 57' 57.5" W, an arc distance of 423.93 feet to the point of compound curvature of a curve to the right having a radius of 308.43; thence along said curve to the right, through a central angle of 47 degrees 48' 25", an arc distance of 257.35 feet; thence bearing N 70 degrees 38' 40" W a distance of 320.40 feet to the point of curvature of a curve to the right having a radius of 374.0 feet; thence along said curve to the right, through a central angle of 20 degrees 55' 24", an arc distance of 136.58 feet to the point of beginning; thence bearing N 70 degrees 32' 54" W a distance of 21.11 feet; thence bearing N 18 degrees 15' 32" E a distance of 8.86 feet to the point on a curve to the left having a radius of 374.0 feet; thence along said curve an arc distance of 23.06 feet and a chord that bears S 47 degrees 57' 34" E to the point of beginning.

#### Tract C:

That portion of Reserve F, in Wichita Municipal Airport Addition to Wichita, Kansas, Sedgwick County, Kansas, described as: Commencing at a point 30 feet right of STA. 56+11.18 of the proposed Midfield Road, said point being 2727.71 feet South and 565.77 feet West (Grid System) of the Southeast corner of Section 28, T27S, R1W, of the Sixth Principal Meridian, Sedgwick County, Kansas; thence Bearing S 19 degrees 20' 14" W along the south right-of-way line of said Midfield Road a distance of 330 feet; thence bearing S 70 degrees 39' 46" E a distance of 582.97 feet to a point on a curve to the right having a radius of 894.13 feet; thence along said curve to the right, through a central angle of 27 degrees 09' 55", with a

chord bearing S 47 degrees 57' 57.5" W, an arc distance of 423.93 feet to the point of compound curvature of a curve to the right having a radius of 308.43 feet; thence along said curve to the right, through a central angle of 47 degrees 48'25", an arc distance of 257.35 feet; thence bearing N 70 degrees 38'40" W a distance of 320.40 feet to the point of curvature of a curve to the right having a radius of 374.0 feet; thence along said curve to the right, through a central angle of 57 degrees 08'31", an arc distance of 372.00 feet to the point of beginning; thence bearing N 67 degrees 45'39" W a distance of 10.30 feet; thence bearing N 19 degrees 15'39" E a distance of 16.30 feet to the point on a curve to the left having a radius of 374.0 feet; thence along said curve an arc distance of 17.73 feet and a chord that bears S 12 degrees 08'58" E to the point of beginning.

**City of Wichita  
City Council Meeting  
November 4, 2008**

**TO:** Wichita Airport Authority

**SUBJECT:** Wichita Airport Hotel Associates, L.P. –  
Estoppel Letter and Memorandum of Lease

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

---

**Recommendation:** Approve the Estoppel Letter and Memorandum of Lease.

**Background:** On June 5, 2007, the Wichita Airport Authority entered into a 23-year agreement through May 31, 2030 with Wichita Airport Hotel Associates for the continued operation of the Hilton Inn on Mid-Continent Airport. The agreement also included three extension options through May 31, 2057, resulting in a 50-year lease term if all options are exercised. Wichita Airport Hotel Associates is responsible for all maintenance, repairs, renovations and improvements to the hotel. The partners are desirous of making improvements to the facility, including the construction of a new exterior window wall system, which will provide improved energy efficiency, better sound control, and will provide the hotel with a new, more attractive and brighter exterior color appearance.

**Analysis:** Section 4.09 of the agreement states the tenant may secure mortgage financing to finance all or part of the cost of the improvements, so long as the financing approval does not exceed 75% of the appraised value of the facility. The requested amount to be financed is below the requirement of this section. The agreement further states that if landlord approval of such financing is required by any lender, mortgage company, or other entity, tenant shall obtain the approval of landlord, which approval shall not be unreasonably withheld, conditioned, or delayed and landlord shall execute and deliver any certificates and instruments required to be executed on behalf of landlord that are necessary for the tenant to obtain such financing. The tenant is now requesting that the Wichita Airport Authority approve the leasehold mortgage by execution of the Estoppel Letter and Memorandum of Lease.

**Financial Considerations:** The requested financing of \$12 Million will be repaid by Wichita Airport Hotel Associates, L.P., with no costs attributable to the Wichita Airport Authority.

**Goal Impact:** The Airport's contribution to the economic vitality of Wichita is promoted through facilitating arrangements which allow improvements to the airport's facilities, and which enhance amenities used by the traveling public.

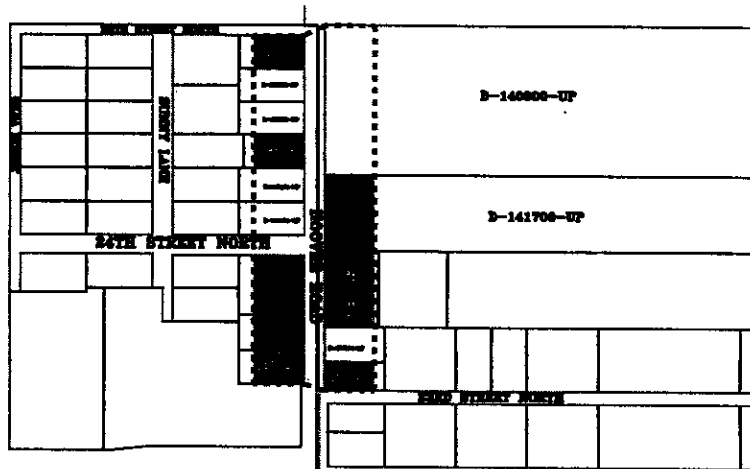
**Legal Considerations:** The documents have been reviewed and approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the Estoppel Letter and Memorandum of Lease, and authorize necessary signatures.

**Attachments:** Estoppel Letter and Memorandum of Lease.



PROPOSED WATER LINE ON HOOVER FROM  
23RD ST NORTH TO 25TH ST NORTH



RESIDENT OWNERS SIGNED (50%)

AREA SIGNED (54%)

IMPROVEMENT DISTRICT BOUNDARY

PROPOSED WATER LINE IMPROVEMENT



in triplicate Manager to sign all copies. Final w/ initiating resolution in City Clerk. and copy to initiating department. copy to Controller.	along Hoover, 23rd - 25th Street North			Yes	No	by	City Manager	Date
								X

**CAPITAL IMPROVEMENT  
PROJECT AUTHORIZATION  
CITY OF WICHITA**

USE:  
 To Initiate Project ☐  
 To Revise Project ☒

1. Prepare in triplicate
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 10/15/2008	4. Project Description & Location Water Distribution System along Hoover, 23rd - 25th Street North
5. CIP Project Number NI-200424	6. Accounting Number	7. CIP Project Date (Year) 2008	8. Approved by WCC Date
9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised	
As Required		12. Project Cost Estimate	
ITEM	GO	SA	OTHER *
Right of Way			
Paving, grading & const.			
Bridge & Culverts			
Drainage			
Sanitary Sewer			
Sidewalk			
Water		\$63,000	\$117,000
Other			
Totals		\$63,000	\$117,000
Total CIP Amount Budgeted			\$180,000
Total Prelim. Estimate			

12A.

Platting Required	Yes	No
Lot Split	X	
Petition	X	

Ordered by WCC

Remarks:

100 % Petition

\* Water Utility

448-90308

13. Recommendation: Adopt the Resolution

Division Head <i>Stan Jones</i>	Department Head <i>Ed M. Co</i>	Budget Officer <i>Andrew Hill</i>	City Manager
for Jim Jensen 10/14/08		Date 10/17/09	Date

**City of Wichita  
City Council Meeting  
November 4, 2008**

**TO:** Mayor and City Council Member

**SUBJECT:** Water Distribution System for an area along Hoover, between 23rd St. North and 25th St. North (District V)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

---

**Recommendations:** Approve the project budget increase.

**Background:** On August 7, 2007, the City Council approved a Petition for a water distribution system to serve an area along Hoover, between 23rd St. North and 25th St. North. An attempt to award a construction contract within the budget set by the Petition was not successful. The cost increase is due to higher than expected costs for over sizing the pipe line for future development outside the improvement district, which is funded by the Water Utility.

**Analysis:** The project will provide water service to existing residential development.

**Financial Considerations:** The existing Petition total \$126,000 with \$63,000 assessed to the improvement district and \$63,000 paid by the Water Utility. The new project budget totals \$180,000 with \$63,000 paid by special assessments and \$117,000 paid by the Water Utility.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by providing water service to an existing residential area.

**Legal Considerations:** State Statutes provide the City Council the authority to increase the Water Utility share of the project cost by Resolution.

**Recommendation/Actions:** It is recommended that the City Council approve the budget increase, adopt the Resolution and authorize the necessary signatures.

**Attachments:** Map, CIP Sheet and Resolution.

First Published in the Wichita Eagle on November 7, 2008

RESOLUTION NO. 08-513

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-90308 (ALONG HOOVER, BETWEEN 23RD ST. NORTH AND 25TH ST. NORTH) IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-90308 (ALONG HOOVER, BETWEEN 23RD ST. NORTH AND 25TH ST. NORTH) IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 07-441 adopted on August 7, 2007 is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct Water Distribution System Number 448-90308 (along Hoover, between 23rd St. north and 25th St. North).

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be One Hundred Eighty Thousand Dollars (\$180,000) exclusive of the cost of interest on borrowed money, with Sixty-Three Thousand Dollars (\$63,000) payable by the improvement district. The remaining cost of the improvements shall be payable by the Wichita Water Utility fund. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after November 1, 2006, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

**UNPLATTED TRACTS**

**In Section 3, Twp 27S, R1W**

The East 150 Feet of Unplatted Tract: Beginning 40 Feet South of the Northeast Corner of the SE1/4 South 100 Feet West 225 Feet North 100 Feet East to Beginning

The East 150 Feet of Unplatted Tract: North Half Of A Tract Beginning 140 Feet South of the Northeast Corner of the SE1/4 South 200 Feet West 225 Feet North 200 Feet East to Beginning

The East 150 Feet of Unplatted Tract: Beginning 230 Feet North of the Southeast Corner of the NE1/4 of the SE1/4 West 225 Feet North 100 Feet East 225 Ft South to Beginning

The East 150 Feet of Unplatted Tract: South Half of a Tract Beginning 140 Feet South of the Northeast Corner of the SE1/4 South 200 Feet West 225 Feet North 200 Feet East to Beginning

The East 150 Feet of Unplatted Tract: East 225 Feet of the NE1/4 of the SE1/4 Except for North 874.2 Feet Thereof and Except for South 330 Feet Thereof

The East 150 Feet of Unplatted Tract: Beginning 340 Feet South of the Northeast Corner of the SE1/4 South 100 Feet West 210 Feet North 100 Feet East 210 Feet to Beginning

The East 150 Feet of Unplatted Tract: Beginning 700 Feet South and 30 Feet West of the Northeast Corner of the SE1/4 West 195 Feet South 180 Feet East 195 Feet North 180 Feet to Beginning Except for South 5.80 Feet Thereof

The East 150 Feet of Unplatted Tract: Beginning 640 Feet South of the Northeast Corner of the SE1/4 West 225 Feet North 100 Feet East 225 Feet South to Beginning

The East 150 Feet of Unplatted Tract: Beginning 440 Feet South of the Northeast Corner of the SE1/4 South 100 Feet West 225 Feet North 100 Feet East to Beginning

**In Section 2, Twp 27S, R1W**

The West 150 Feet of Unplatted Tract: North 105 Feet South 420 Feet West 210 Feet of the NW 1/4 of the SW 1/4

The West 150 Feet of Unplatted Tract: North 445 Feet of the NW1/4 of the SW1/4

The West 150 Feet of Unplatted Tract: North 225 Feet North 450 Feet South 870 Feet of the NW1/4 of the SW1/4

The West 150 Feet of Unplatted Tract: West 183.5 Feet South 225 Feet North 450 Feet South 870 Feet of the NW1/4 of the SW1/4 Except for Road

The West 150 Feet of Unplatted Tract: S 105 FT N 210 FT S 420 FT W 210 FT NW1/4 SW1/4

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **front foot** basis.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.



SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 4<sup>th</sup> day of November, 2008.

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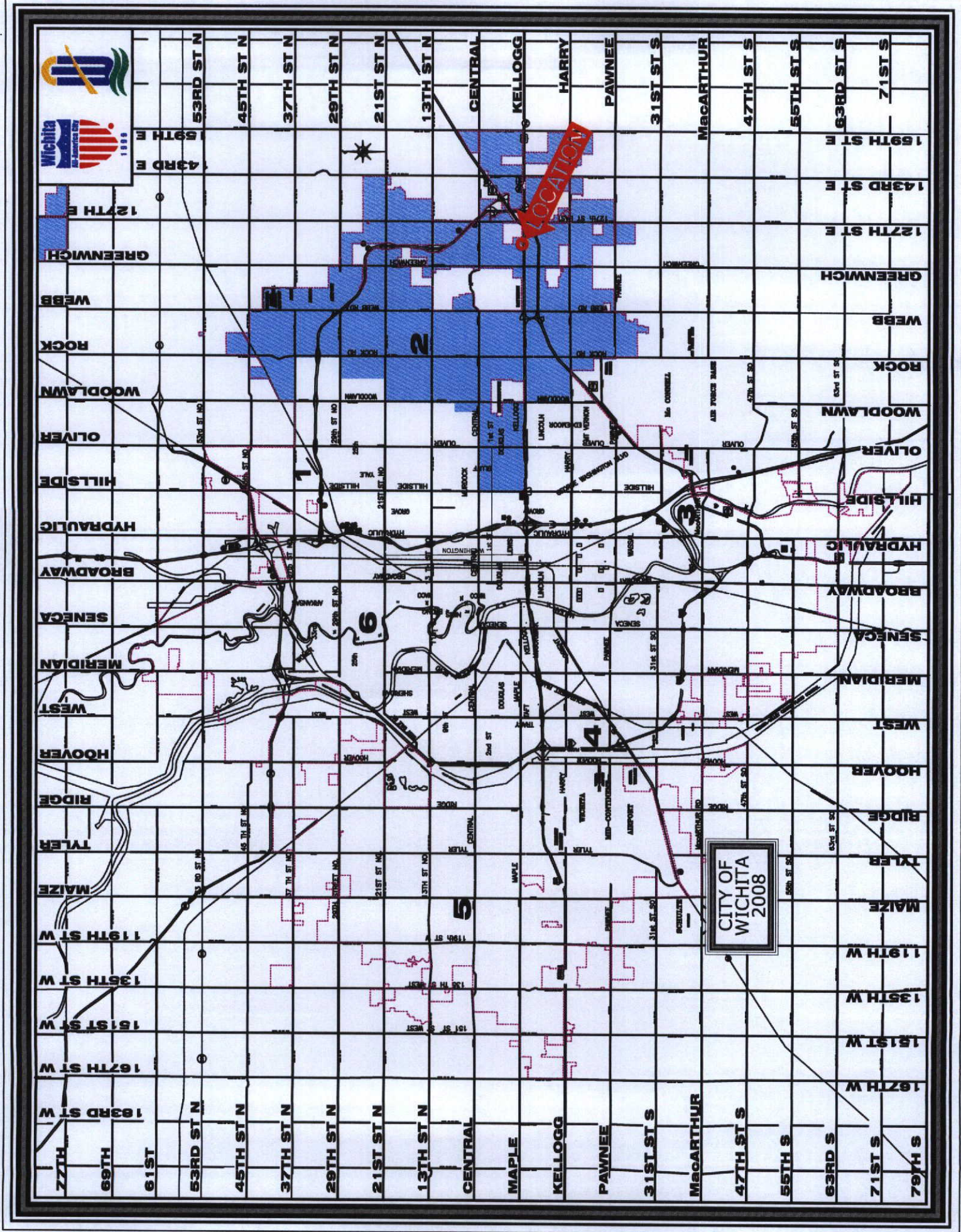
CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK  
(SEAL)







City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Street Closure: East Kellogg Frontage Rd. between Ellson and Zelta (District II)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

---

**Recommendation:** Approve the street closure.

**Background:** Cornejo and Sons, Inc. has contracted to install a storm drainage system under East Kellogg and along the center of the (north) Kellogg Frontage Road between Ellson and Zelta. This project was approved by the City Council on December 4, 2007. The installation of this drainage system under mainline Kellogg will be accomplished in a manner that will maintain two lanes of traffic in each direction. The portion of this drainage system that lies in the center of the frontage road on the north side of Kellogg will require a moving closure of a section of this frontage road. This drainage system will be approximately 15' deep in this area and is located near the centerline of the frontage road. For traffic and worker safety, the frontage road will be closed at a minimal length work area. Frontage road traffic will be maintained both east and west of the closure area. Temporary surface material will be installed over the trench area as the work area moves and will be replaced with permanent pavement at the end of the project. The contractor will allow business access from the frontage road whenever possible and will coordinate and minimize any access closures with the affected businesses. The installation of the storm drainage system in this frontage road is estimated to begin on or before November 20, 2008 with project completion by May, 2009, weather permitting.

**Analysis:** Cornejo and Sons, Inc. is responsible for the placement of the required construction signs and barricades and the notification of area businesses.

**Financial Consideration:** None.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by improving drainage.

**Legal Consideration:** None.

**Recommendation/Actions:** It is recommended that the City Council approve the street closure.

**Attachment:** Map

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Supplemental Design Agreement for East Bank River Corridor Improvements, north of Douglas (District VI)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the Supplemental Agreement.

**Background:** On October 7, 2008, the City Council approved a project to improve the east bank of Arkansas River adjacent to the Broadview Hotel from Douglas to 1st Street Bridge. A supplementary agreement has been prepared with Law/Kingdon, Inc. to develop design concepts for the project. Law/Kingdon, Inc. designed previous riverbank corridor improvements including the Keeper Plaza and riverbank improvement immediately north of 1st Street.

**Analysis:** It is anticipated that the improvements will include a pedestrian walkway, retaining walls, landscaping, ornamental lighting and other features consistent with previous riverbank improvements. The project will be returned to the City Council for approval before final plan preparation begins.

**Financial Considerations:** Payment to Law/Kingdon will be on a lump sum basis of \$83,645. Funding is available within the approved budget. The funding source is General Obligation bonds.

**Goal Impact:** This project addresses the Efficient Infrastructure and Quality of Life goals by improving part of the Arkansas River Corridor.

**Legal Considerations:** The Supplemental Agreement has been approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

**Attachments:** Supplemental Agreement.

SUPPLEMENTAL AGREEMENT NO. 5

AGREEMENT FOR PROFESSIONAL SERVICES DATED JUNE 8 1999

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

“CITY”

AND

LAW/KINGDON, INC.

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

“ARCHITECT”

WITNESSETH:

WHEREAS, there now exists a Contract (dated June 8, 1999) between the two parties covering architectural and engineering services to be provided by the ARCHITECT in conjunction with the construction of improvements to the **RIVER CORRIDOR IMPROVEMENT PROJECT**.

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that addition work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ARCHITECT provide additional services required for the PROJECT and receive additional compensation (as revised herein.)

NOW THEREFORE, the parties hereto mutually agree as follow”

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the “PROJECT” as stated on page 1 of the above referenced agreement is hereby amended to include the following.

**Phase 1c – Schematic Design/Design Development Phase Scope – Broadview Hotel**  
(see Exhibit c)

B. PAYMENT PROVISIONS

The fee in Section IV. A. shall be amended to include the following:

Payment to the ARCHITECT for the performance of the professional services as outlined in this supplemental agreement will increase the total contract by **\$83,645.00**

C. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ARCHITECT have executed this Supplemental Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

BY ACTION OF THE CITY COUNCIL

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Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Gary Rebenstorf, Director of Law

LAW/KINGDON, INC.

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(Name and Title)

ATTEST:

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October 16, 2008

Mr. Chris Carrier, Director of Public Works  
City of Wichita, 8th Floor  
455 N Main  
Wichita, KS 67202

RE: Proposal for Design Services – Phase 1c River Corridor Improvement Project – Supplemental Agreement #5

Mr. Carrier,

Thank you for the opportunity to provide supplemental design services for the award-winning Arkansas River Corridor Improvement Project. We are excited about working with the City of Wichita and continuing the success which we started with the Keeper of the Plains project. We have been involved with the River Corridor Improvement project for nearly a decade and are anxious to see these improvements come to fruition.

As discussed at the pre-scoping meeting on September 17, 2008, we anticipate working with Drury Hotels to design site improvements on the hotel property to fully integrate those improvements with those along the Arkansas River. Designing both properties concurrently will aid in the cohesiveness of the bank as well as facilitate broader design opportunities.

**Project Description:**

This proposal will encompass those services and scope we envision necessary for design of the east bank between Second Street and Douglas Ave (Phase 1c of the master plan) from the edge of water to the high bank line. We understand that the basic premise and parameters that we used for the original master plan are still valid, however, the recent purchase of the Broadview Hotel by Drury Hotels will be integrated into the design process.

The original master plan addressed this area in minimal fashion with improvements to be implemented so as to not encumber future development of the Broadview Hotel and north parcel. It was felt that too little was known about the future of these two properties to adequately design around them to ensure that public funds were not being utilized for improvements that would later need to be removed. However, with the sale of the Broadview to Drury Hotels and their interest in embracing the river and the City's investment, we feel that this section of the corridor has great potential for attracting people and activity, and further activation the entire corridor.

We have reviewed this project as it relates to the work proposed for the renovation of the Broadview Hotel site. We are proposing a two-phase contract with the City of Wichita for the scope of this project due to the undefined nature of the improvements and project boundaries. This proposal outlines services for the design phase of the project through all applicable approvals. A second contract will be prepared for the construction documents and bidding related to the final design. We see this as the fairest manner to provide complete services to the City of Wichita at this time.

As well, we have included a line item to master plan the parcel located north of the hotel to aid the City in marketing that valuable ground to future developers. The design team will make recommendations as to the best use for this parcel and provide graphics of potential development alternatives.

### **Schematic Design/Design Development Phase Scope:**

This vision for this portion of the river includes the reorientation of the Broadview Hotel to the river to embrace the corridor environment and help further activate the entire bank. We foresee providing additional access to the river and opening the area for more activity. This section will be more urbanized in character than the recently completed section as it is located deeper in the heart of the city.

- Coordinate with Drury Hotels and the City of Wichita to redesign the section of river front between Douglas St. Bridge and 2nd Street Bridge along the east bank. This section will, at a minimum, include the following:
  - Rehabilitated sheet pile and edge treatment.
  - Hardscape and plaza space design.
  - Terracing and retaining walls to open the section for activity.
  - Lighting and landscape improvements.
  - Integration of public art component.
  - Possible river access for maintenance, public recreation/boat rental facility and emergency vehicles.
  - Coordination with Wichita Festivals concerning the existing building just north of the hotel.
  - Coordination with the Arkansas River Access Plan and the Parks Department.
  - Development of design alternatives and cost estimates.
- Design Process
  - The design team proposes a series of design charrettes early in the process. We have found this process beneficial in expediting the project by bringing together all the stakeholders, consultants and decision makers. We anticipate two (2) four-hour sessions to be held on consecutive days.
  - We anticipate inviting Architects from Drury Hotels to participate in the charrette process.
  - Prior to the charrettes, the design team will have internal design sessions to create conceptual designs and formulate the project program.
  - Following the charrettes, the final design and alternatives will be further refined by the design team, cost estimates completed and be presented to City staff.
  - Upon staff approval, final graphics will be completed and presentations commence to DAB, Design Council and City Council for approvals.
  - Immediately following approvals, LawKingdon shall prepare a final scope of services related to development of construction and bidding documents.

We do not anticipate a high level of public involvement; however, the team will be expected to have ongoing meetings with City Staff to coordinate design and long term maintenance issues as well as coordination with Drury Hotels. We anticipate including staff from the Public Works and Engineering Departments, Park and Recreation, Planning Department and Maintenance in design charrettes and meetings.

It is anticipated that limited geotechnical study may be necessary for completion of construction documents and can be negotiated during that phase of work.



### **Project Team:**

It has been determined to retain as much of the original project team as practical for this project. Below is a listing of the project team members and discipline:

- Project Management/Coordination – LawKingdon Architecture
- Landscape Architecture – LawKingdon Architecture
- Architecture – LawKingdon Architecture
- MEP Engineering – LawKingdon Architecture
- Design Consultant – Skinner Design Studios
- Civil Engineering – Wilson Company
- Structural Engineering – Wilson Company
- Environmental Graphics/Wayfinding – Greteman Group
- Artist Consultants – Brunner Sculpture

### **Consultants:**

Wilson Company – Civil & Structural Engineering

- Wilson Company shall provide expertise related to improvements that are made within the hydraulic section, grading of bike paths, sheet piling, utility infrastructure and structural engineering for retaining structures.
- Site Survey Information and updated title work/ownership information

Skinner Design Studios – Design Consultant

- Kurt Skinner, former Director of Landscape Architecture and Landscape Architect of Record for Phase 1a brings valuable design expertise and extensive knowledge of the project's history, since its inception.

Greteman Group

- Greteman Group was the primary environmental graphics and wayfinding consultant for Phase 1a and will be retained for those associated elements long this section of the river corridor. Their involvement will be at on an hourly basis for this phase of work.

Brunner Sculpture – Artist Consultant

- Chris Brunner is the primary artist consultant for the project. Since there may be changes as well as the need to go before Design Council, we feel his participation in key workshops would prove beneficial. Also, in light of his experience with artists in Phase 1a, assumptions about which artists might be involved, and where, may be adjusted to ensure the future quality and performance in this phase of work.

### **Primary Schedule:**

- Preliminary Design Work (Design Team):
  - Two Weeks
- Design Charette & Finalization of Design Concept
  - Four Weeks
- Approval Process
  - Two Weeks
- Total Design Time: 9 weeks
  - Assuming start Nov. 1 2008 – January 12, 2009
- Construction Document Preparation
  - Assuming start January 12, 2009 – April 1, 2009

**Fee Proposal:**

Our fee for the detailed scope of work is below. We welcome the opportunity to discuss both the scope of the project and our related fee with you in more detail to ensure that we are providing the best possible service to the City of Wichita. Included within the fee are the costs for printing and plotting for the project. If an excessive amount of additional printing is requested for presentations, (exceeding \$2,000 of direct cost), this direct cost will be passed on to the City. At the completion of the Design Development phase, we will provide the Owner with related renderings, drawings and construction cost estimates. Fees for construction document preparation will be dependent upon final design and will be negotiated at the conclusion of the design phase.

**Phase 1c**

LawKingdon Architecture	\$42,000
Wilson Company	
Field Survey	\$8,800
Civil & Structural	\$15,845
Skinner Design Studios	\$12,000
Brunner Sculpture	\$5,000
<u>Total Design Fee:</u>	<u>\$83,645</u>

**Billing and Additional Work:**

Invoices will be submitted monthly in proportion to the percent complete of the project. For services outside the scope of this agreement, work will be performed on hourly rate or a mutually agreed upon lump sum. Services outside the scope of the contract shall be authorized by the Owner prior to beginning any work.

We have provided an acceptance block below for signature. If this proposal is acceptable to you, please sign in appropriate space provided and return one (1) original to my attention. After we have resolved any modifications to the scope of work proposed for the project and a subsequent adjustment to the fee, we will convert this proposal letter to either a standard AIA (American Institute of Architects) Contract or Standard City Contract as our formal agreement. This letter will become an attachment to the formal contract.

Again, we are looking forward to moving ahead with the next phase of the River Corridor Improvement Project and working with the City of Wichita to continue the success of the project. After you have had the opportunity to review this proposal we would like to schedule a meeting to discuss the final scope in greater detail.

Sincerely;

LawKingdon Architecture

Dennis D. Smith AIA  
President

Jeffrey A. Best, ASLA  
Director of Landscape Architecture

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Agreement for Design Services for Botanica/Sim Park Access Road and Utility Improvements (District VI)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the Agreement.

**Background:** Funding has been obtained through private donations for expansion of the Botanica complex west into Sim Park. The expansion will include the extension of a park road west of the intersection of Murdock and Amidon. Extension of water and sewer service to the proposed new Children's Garden, as well as for future expansion of the complex, is also needed.

**Analysis:** The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the preparation of construction plans. The Staff Screening and Selection Committee selected MKEC for the design on September 11, 2008.

**Financial Considerations:** Payment to MKEC will be on a lump sum basis of \$50,624 and will be paid through a Park Department account where the private funds have been transferred.

**Goal Impact:** This project addresses the Efficient Infrastructure and Quality of Life goals by providing street, water, and sanitary sewer improvements needed for the expansion of Botanica.

**Legal Considerations:** The Agreement has been approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

**Attachments:** Agreement

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

MKEC ENGINEERING CONSULTANTS, INC.

for

BOTANICA ROADWAYS AND UTILITIES IMPROVEMENTS

THIS AGREEMENT, made this 4<sup>th</sup> day of November, 2008, day of by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and MKEC ENGINEERING CONSULTANTS, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

**BOTANICA ROADWAYS AND UTILITIES IMPROVEMENTS**

(Project No. 472 84758)

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing roadways and utilities improvements at Botanica and perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the

person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 472 84758      **\$50,624.00**

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_

Carl Brewer, Mayor

SEAL:

ATTEST:

\_\_\_\_\_

Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANT, INC.

\_\_\_\_\_

(Name & Title)

ATTEST:

\_\_\_\_\_

## SCOPE OF SERVICES

### **BOTANICA ROADWAYS AND UTILITIES IMPROVEMENTS**

(Project No. 472 84758)

This project has three components: 1) new water and sewer lines to serve the Classroom/Restrooms Building at the proposed Children's Garden area and the future Conservatory; 2) roadway work including removal of a portion of existing Amidon and relocation between Botanica and the golf course, connecting to the Murdock circle drive; and a bus drop-off area on Museum Blvd where Amidon was removed; and 3) land survey of the proposed Children's Garden area.

1. The ENGINEER shall design new water and sanitary sewer lines to adequately serve the Classroom/Restrooms Building shown in the attached drawing. Design will include determination of sizing for projected future needs.
2. The ENGINEER shall design removal of Amidon Street from Museum Blvd north to the golf course and replace it with a pedestrian and service path. The ENGINEER shall design a new two-lane roadway with curb and gutter from a point near the existing Botanica Education Center entrance west to the end of the golf course, curving north to the Murdock circle drive as shown in the attached drawing. The ENGINEER shall also design a bus drop-off circle at the south end of the former Amidon Street which was removed above.
3. The ENGINEER shall conduct a survey by a licensed land surveyor to meet the requirements of the attached AIA Document G601, which designates Drawing Requirements and Topographical Survey Requirements. Regarding the requirements of the AIA document describing the survey, Item 4.1 of Article 4, "Land (Boundary) Survey Requirements" will not need to be completed. A CADD file shall also be included in the deliverable requirements. The approximate limits of the survey are shown on the attached drawing. This survey will become the property of the City of Wichita, to be utilized in future design of the Children's Garden.
4. Design of the sidewalk shown on the golf course side of the new roadway is **NOT** included in this project.
5. A five foot (5') on-street bike lane will be included on the south side of the proposed two-lane roadway for the full length shown on the drawing attached to the original request for proposal. The lane will be striped and signed in accordance with City of Wichita standards. The proposed new roadway will be 36 feet wide from back of curb to back of curb, including the 5 foot bike lane. The through lanes will be 13 feet wide

No landscaping beyond standard site restoration will be included. This project will involve drainage improvements for the new roadways. During the Discovery Phase the ENGINEER is to meet with Botanica and golf course staff, DAB, the City of Wichita's Design Council, City engineering staff, and Wichita City Council to confirm the project's scope of improvements and the design criteria. A written document is to be prepared by the ENGINEER stating the scope of physical improvements to be included in the project, and the design goals and issues to be addressed in the Concept Phase. In the Concept Phase the ENGINEER is to prepare conceptual designs to respond to the design criteria and project scope identified and approved earlier in the Discovery Phase. The ENGINEER is to make presentations of the conceptual design alternatives to the associations and boards, Wichita City staff and Wichita City Council; and revise the designs as necessary to secure approval by the Wichita City Council of a final concept. A preliminary cost estimate of the approved concept is to be prepared by the ENGINEER as part of the Concept Phase. The City must approve the initiation of the Construction Design work following the completed Concept Phase. Tract maps to identify right-of-way requirements are part of the Concept Phase. Monument marking of any new right-of-way is considered part of the Construction Design Phase. This project will include coordination of the relocation of utilities as



necessary.

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts. The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts.

On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a NOI prior to bidding; site-specific erosion control plan; and standard BMP detail sheets per Attachment No. 1.

Associated improvements as part of these projects will include permanent traffic signalization system improvements (if required), permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing (when applicable), incidental drainage, sidewalk (when required), identification of additional right-of-way (if required) and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita and the Kansas Department of Transportation (KDOT), and the U.S. Army Corps of Engineers, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept. A landscape architect should be included on the Consultants' Design Team.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved.

In addition, the ENGINEER will notify the City Archaeologist, at 316-978-3195 prior to beginning work on this project.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I - PRELIMINARY CONCEPT DEVELOPMENT

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and completeness of the background information provided by the ENGINEER used in the evaluation process.
2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer for the City of Wichita prior to progressing to detail aspects of the work. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.

3. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self explanatory and readily understood by persons with average backgrounds for the technology involved.
4. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
5. Preliminary Water Line Alignments and Profiles. Preliminary water alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work.
6. Right-of-Way. Identify right-of-way requirements for the preliminary concepts developed. Such right-of-way requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
7. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in power point presentation.
8. S. I. & A. for Bridges. Perform initial and keep current the inspection/inventory and analysis for completion/update of the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT. ENGINEER shall also provide the CITY with a new S. I. & A. upon completion of the bridge construction, along with the Design Load Ratings ("Load Factor" method) and pictures, with one copy submitted to KDOT Bridge Engineer.
9. Landscape Plans. When the design has fulfilled the program requirements, submit three (3) sets of landscape plans to the CITY'S project manager. After the project manager approves the plans, he/she will submit two (2) sets to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment.
10. Design Council. ENGINEER shall meet with the City's Design Council, to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design development, the PROJECT should be presented to the Design Council for review.

B. PHASE II - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY and as agreed upon at Field Check and/or Office Check Review.

1. Design Council. ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed except for unforeseen conditions, which may arise. (It should be noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by

- the Design Council at the Design Freeze review.)
2. ULCC. The ENGINEER shall prepare Utility Check plans and schedule with ULCC subcommittee for review as early as practical, usually prior to Field Check plan stage. A second ULCC review should be scheduled near Office Check plan stage. Utility coordination procedures shall conform to the current policy of the City Engineer.
  3. Field Check Plans. When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY. ENGINEER to submit one copy of preliminary cost estimate and three (3) sets of field check plans to the CITY and one copy of preliminary cost estimate and four (4) sets of field check plans to KDOT. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required. Major items of work included in development of field check plans are:
    - (a) Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans. Coordination of utilities and pipelines for the PROJECT by the ENGINEER shall conform to current adopted policies of the City Engineer for Category II projects.
    - (b) Submit fifteen (15) sets of field check plans to the City Engineer's office for distribution to utility companies. Submit additional sets of field check plans as required for utility and pipeline companies who are not members of the Utility Location Coordination Council.
    - (c) Soils and Foundation Investigations. The CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita if not included in the ENGINEER'S fee estimate. However, all bridge projects shall include the cost of soils and boring investigations in the ENGINEER'S fee.
    - (d) Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of all the right-of-way for utility relocations at a time directed by the CITY.
    - (e) Prepare legal descriptions for Right of Entry and submit drawings to the City that are suitable for mailing to property owners. Incorporate Right of Entry limits on the plans.
  4. Office Check Plans. When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review. Major items of work included in development of office check plans are:
    - (a) Submit three (3) sets of office check plans to the CITY and, if required, two (2) sets of office check plans to KDOT, with one copy of supplemental specifications and one copy of cost estimates and quantities of work units of the PROJECT for office check. (Cost estimates to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.) Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals. ENGINEER to participate in an office check of the PROJECT with the CITY and with KDOT when required.
    - (b) Identify all known utility conflicts. ENGINEER shall meet with utility company representatives as required to review the PROJECT design and interpret engineering drawings. Utility coordination procedures shall conform to current policy of the City Engineer.

- (c) Submit fifteen (15) sets of office check plans to the City Engineer's office for distribution to utility companies. Submit additional sets of office check plans as required for utility and pipeline companies who are not members of the Utility Location Coordination Council.
  - (d) Office check plans shall include traffic signalization details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction."
  - (e) Permits. The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT.
5. Final Plans. When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review. Major items of work included in development of final plans are:
- (a) Prepare engineering plans (which shall include construction sequencing and traffic control), supplemental specifications, special provisions and construction cost estimates, or estimates of the quantities of work for the PROJECT.
  - (b) Final Plan Submittals.
    - a. Electronic versions of the approved final plans for all projects need to be submitted on CD or DVD in both AutoCAD and .pdf format (.dwg format is preferred, .dxf is acceptable). Text fonts other than standard AutoCAD fonts are to be included with drawing files. Pdf files should be scalable to 22"x36" and oriented right side up.
    - b. Two 11"x17" half-scale hardcopies of all plans are required. Four additional half-scale sets are required for all KDOT/Federally funded projects.
    - c. Mylar plans are required for all water projects and any plans that incorporate water line improvements (both CITY and KDOT). Mylar cover sheet only is required for all other KDOT/Federally funded projects for the signature purposes.
    - d. Field notes, other pertinent project mapping records, supplemental specifications, special provisions and cost estimates are to be provided to the City Engineer for the taking of bids as appropriate for the CITY and/or KDOT.
  - (c) Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.
  - (d) Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to CITY or KDOT standards as applicable.
  - (e) Final plans when submitted shall be complete and ready for reproducing for distribution to prospective bidders.
  - (f) All applicable coordinate control points and related project staking information shall be furnished on the plans, as well as on a CD-ROM in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
  - (g) The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.

- (h) ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.
- 6. Staking and Inspection If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.
- 7. Post Letting.
  - (a) All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
  - (b) The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
  - (c) The Engineer shall complete permanent monumentation of all new R/W, complete and submit all necessary legal documentation for same.
- 8. Project Milestone. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below and generally in accordance with the project bar chart attached to Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
  - (a) Survey for the Children's Garden is due September 15, 2008.
  - (b) Concept designs are due October 1, 2008.
  - (c) Field Check plans are due November 15, 2008.
  - (d) Office Check plans are due December 15, 2008.
  - (e) Final plans are due February 1, 2009.

## **Attachment No. 1 to Exhibit “A” – CIP Scope of Services**

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Environmental Services  
1900 E. 9<sup>th</sup> St. North  
Wichita, KS 67214

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council Members

**SUBJECT:** Change Order: Pawnee Improvement, between 119<sup>th</sup> St. West and Maize  
(District IV)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the Change Order.

**Background:** On March 20, 2007, the City Council approved a construction contract with APAC-Kansas, Inc. to improve Pawnee, between 119<sup>th</sup> St. West and Maize. The amount of retaining wall needed to match adjacent private yards was greater than expected at the time the project was bid. Additional sidewalk and traffic striping was also needed.

**Analysis:** A Change Order has been prepared for the cost of the additional work. Funding is available within the project budget.

**Financial Considerations:** The total cost of the additional work is \$28,638 with \$5,728 paid by City General Obligation bonds and \$22,910 paid by Federal grants. The original contract amount is \$5,208,498. This Change Order plus previous change orders represents 0.86% of the original contract amount.

**Goal Impact:** This project addresses the Efficient Infrastructure goal by improving traffic flow along an important transportation corridor.

**Legal Considerations:** The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

**Recommendation/Action:** It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

**Attachments:** Change Order.



PUBLIC WORKS-ENGINEERING

December 3, 2007  
**CHANGE ORDER**

**To:** APAC – Kansas, Inc.

**Project:** Pawnee, 119th St. W. to Maize Rd.

**Change Order No.:** 3

**Project No.:** 87N-0353-01/472-84357

Purchase Order No.: 700336

**OCA No.:** 706951/636174

**CHARGE TO OCA No.:** 706951

**PPN:** 206417/776567

**Please perform the following extra work at a cost not to exceed \$28,638.48**

Thermoplastic striping was installed around allof the median. The Southern Ridge sidewalk was connected to the Pawnee sidewalk. Additional retaining wall was added to reduce the grade between the sidewalk and the curb.

**CIP Budget Amount:** \$7,100,000.00 (706951)  
\$ 163,000.00 (636174)

**Consultant:** Poe & Assoc.

**Exp. & Encum. To Date:** \$5,695,474.12 (706951)  
\$ 79,278.93 (636174)

**CO Amount:** \$26,638.40

**Unencum. Bal. After CO:** \$1,375,887.48 (706951)  
\$ 83,721.07 (636174)

**Original Contract Amt.:** \$5,208,498.20

**Current CO Amt.:** \$28,638.40

**Amt. of Previous CO's:** \$15,933.79

**Total of All CO's:** \$44,572.19

**% of Orig. Contract / 25% Max.:** .86%

**Adjusted Contract Amt.:** \$5,253,070.39

**Recommended By:**

**Approved:**

\_\_\_\_\_  
Larry Schaller, P.E.  
Construction Engineer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jim Armour, P.E.  
City Engineer

\_\_\_\_\_  
Date

**Approved:**

**Approved:**

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chris Carrier, P.E.  
Director of Public Works

\_\_\_\_\_  
Date

**Approved as to Form:**

**By Order of the City Council:**

\_\_\_\_\_  
Gary Rebenstorf  
Director of Law

\_\_\_\_\_  
Date

\_\_\_\_\_  
Carl Brewer  
Mayor

\_\_\_\_\_  
Date

**Attest:**

\_\_\_\_\_  
City Clerk



**EXHIBIT B**  
**TERMINATION OF LEASE AGREEMENT**

This TERMINATION OF LEASE AGREEMENT (the "Agreement") is made by and between the City of Wichita, Kansas, a municipal corporation, of Sedgwick County, Kansas (the "City"), and Rand Graphics, Inc. (the "Tenant"). Unless a definition is otherwise provided in this Agreement, the capitalized terms used in this Agreement shall have the same meanings ascribed to them in the Lease as defined below.

**WITNESSETH**

**WHEREAS**, the City has previously issued its Industrial Revenue Bonds, Series IV-A, 1998, and its Subordinated Industrial Revenue Bonds Series IV-B, 1998 (the "Bonds"), in the aggregate original principal amount of \$3,485,000, in connection with the acquisition of the land described in Schedule I hereto (the "Land"), and the construction thereon of the improvements (said Land and Improvements being hereinafter referred to together as the "Facility"); and

**WHEREAS**, the Bonds were issued pursuant to Ordinance No. 43-716 passed and approved by the governing body of the City on March 24, 1998 (the "Ordinance"); and

**WHEREAS**, in connection with the issuance of the Bonds, the City, as lessor (the "Landlord"), and Rand Graphics, Inc., as lessee (the "Tenant"), entered into a Lease Agreement dated as of December 1, 1995 ("Lease Agreement"), as amended by a First Supplemental Lease Agreement dated as of March 1, 1998 (the "Supplemental Lease") and collectively referred to as the "Lease", notice of which Lease Agreement was duly recorded with the Register of Deeds of Sedgwick County on December 1, 1995 on Film 1573, beginning on page 1031 and the notice of Supplemental Lease was duly recorded on March 1, 1998 on Film 1771, beginning on Page 1420; and

**WHEREAS**, the Tenant has paid in full, on or before March 1, 2008, all of the outstanding Bonds; and

**WHEREAS**, the tenant and lessor entered into an Assignment of Site Lease duly recorded on Film 1779, beginning on Page 2000, and this Assignment of Site Lease shall remain in full force and effect until March 1, 2008, unless declared, in writing, by the then record owner of the Project, to be null and void, and

**WHEREAS**, concurrently upon the payment in full of all of the Bonds, the Lease is declared null and void and the Tenant requests that the City convey title to the Project to Rand Graphics, Inc., following such payment and the payment of the sum of \$1,000 and all other payments required by Section 17.1 and 17.2 of the Lease;

**NOW, THEREFORE, THE CITY DOES HEREBY STATE AND DECLARE** that as of the date of delivery hereof the Lease and the Notices thereof shall terminate and be of no further force and effect. The property located in Sedgwick County, Kansas, affected by the Lease and this Termination of Lease is described in Schedule I attached hereto and incorporated herein by reference.

**IN WITNESS WHEREOF**, the parties named above have caused this Termination of Lease

to be duly executed in their respective names and have caused their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, as of \_\_\_\_\_.

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Carl Brewer, Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

#### ACKNOWLEDGMENT

STATE OF KANSAS    )  
                                  ) ss:  
SEDGWICK COUNTY)

On this \_\_\_\_\_ day of November, 2008 before me, the undersigned, a Notary Public in and for said State, came Carl Brewer and Karen Sublett, to me personally known to be the Mayor and City Clerk, respectively, of the City of Wichita, Kansas, and said Mayor and City Clerk acknowledged that they executed the foregoing instrument in writing as the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

\_\_\_\_\_  
Notary Public

[SEAL]

My Appointment Expires:

\_\_\_\_\_

Rand Graphics, Inc.

By \_\_\_\_\_  
\_\_\_\_\_

## ACKNOWLEDGMENT

STATE OF KANSAS     )  
                             ) ss:  
SEDGWICK COUNTY)

On this \_\_\_\_\_ day of November, 2008 before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, on behalf of said corporation and acknowledged to me that he executed the same for the purposes therein expressed, acting for and on behalf of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Notary Public

[SEAL]

My Appointment Expires:

---

**RAND GRAPHICS, INC.**

**SCHEDULE I**

SCHEDULE I TO THE FIRST SUPPLEMENTAL TRUST  
INDENTURE OF THE CITY OF WICHITA, KANSAS AND EMPRISE  
BANK, AS TRUSTEE, DATED AS OF MARCH 1, 1998 AND TO THE  
FIRST SUPPLEMENTAL LEASE DATED AS OF MARCH 1, 1998 BY  
AND BETWEEN SAID CITY AND RAND GRAPHICS, INC.

**PROPERTY SUBJECT TO LEASE**

A) **THE LAND.** The Issuer's leasehold interest in the following described real estate located in Sedgwick County, Kansas:

(i) Commencing at the SW Corner of Lot 1, Block 1, A.M.F. Addition, Wichita, Sedgwick County, Kansas; thence N89°19'46"E along the South line of said Lot 1, 37.30 feet; thence N00°E parallel with the West line of said Lot 1, 24.81 feet for a point of beginning; thence N00°34'24"W 85.25 feet; thence N89°25'36"E, 140.59 feet; thence S00°34'24"E, 85.25 feet; thence S89°25'36"W, 140.59 feet to the point of beginning.

(ii) Lot 1, Block 1, Vautravers Addition, Wichita, Sedgwick County, Kansas

The issuer's easement interest in the following described real estate located in Sedgwick County, Kansas:

(iii) Lot 1, McMillan Second Addition and Lot 1, Rand Addition, Wichita, Sedgwick County, Kansas.

said real property constituting the "Land" as referred to in said Lease and Indenture.

B) **THE IMPROVEMENTS.** All buildings, improvements, machinery and equipment now or hereafter constructed, located or installed on the Land pursuant to said Lease, constituting the "Improvements" as referred to in said Lease and said Indenture, and more specifically described as follows:

(i) 1995 Project:

An approximately 17,200 square foot metal building, located on the real property described in paragraph (A)(i) above, and which adjoins the Tenant's existing facilities, plus the following machinery and equipment acquired with the proceeds of the 1995 Bonds and 1996 Bonds and located on the real property described above:

110" LAWSON MILL TRIMMER  
1957 HEIDELBERG CYLINDER PRESS 22X28  
POWERMAC  
HERITAGE II TIME CLOCK  
84X187 EXPOSURE UNIT

HAMADA OFFSET PERFECTOR PRESS  
60" SIAS LAMP EXP UV DRYER  
GROMMET WASHER FEEDING & SETTING MACHINE  
ACTIVE VOICE REPLAY VOICE MAIL SYSTEM  
54X144 FILM BOARD & 22" OVERHEAD TRACK  
60 TON A/C UNIT  
DOLEX 800 PLOTTER  
SCITEX UPGRADE  
SIAS 5/COLOR QUATTRO BANNER PRESS  
ROSENTHAL SHEETER  
INTERTHOR ELECTRIC LIFT  
INTERTHOR ELECTRIC LIFT  
PROFIT CONTROL REMOTE SITE  
HARLACHER H41-3 AUTOMATIC SCREEN COATER  
HARLACHER COATING TROUGHS (2)  
12' 1/COLOR PATRIOT BANNER PRESS  
REAR SIDE TAKE-OFF FOR 60" SIAS  
12 STATION EHLERMANN COLLATOR  
MG-28 HIGH SPEED TAPE APPLYING SYSTEM  
32" CEMENTER SYSTEM  
(2) SINGER SEWING MACHINE SYSTEMS

(ii) 1996 Additions

Building Description: An approximately 42,500 square foot metal building, located on the real property described in paragraph (A)(i) above and adjoining the Tenant's existing facilities.

Equipment List:

M&R 5/C 10' PROCESSOR  
IDANIT DIGITAL PRINTER  
SCREEN WASHER  
JUKI SEWING MACHINE  
2 YALE HAND TRUCKS

The property described in paragraphs (A) and (B) of this Schedule I, together with any alterations or additional improvements properly deemed a part of the Project.

## BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned, City of Wichita, Kansas, a municipal corporation (the "Grantor"), does grant, sell, transfer and deliver unto Rand Graphics, Inc., a Kansas corporation (the "Grantee"), all of its interest in the following goods and chattels, viz:

(i) 1995 Project:

An approximately 17,200 square foot metal building, located on the real property subject to Lease Agreement between the parties dated as of December 1, 1995, plus the following machinery and equipment acquired with the proceeds of the 1995 Bonds and 1996 Bonds and located on such real property:

110" LAWSON MILL TRIMMER  
1957 HEIDELBERG CYLINDER PRESS 22X28  
POWERMAC  
HERITAGE II TIME CLOCK  
84X187 EXPOSURE UNIT  
HAMADA OFFSET PERFECTOR PRESS  
60" SIAS LAMP EXP UV DRYER  
GROMMET WASHER FEEDING & SETTING MACHINE  
ACTIVE VOICE REPLAY VOICE MAIL SYSTEM  
54X144 FILM BOARD & 22" OVERHEAD TRACK  
60 TON A/C UNIT  
DOLEV 800 PLOTTER  
SCITEX UPGRADE  
SIAS 5/COLOR QUATTRO BANNER PRESS  
ROSENTHAL SHEETER  
INTERTHOR ELECTRIC LIFT  
INTERTHOR ELECTRIC LIFT  
PROFIT CONTROL REMOTE SITE  
HARLACHER H41-3 AUTOMATIC SCREEN COATER  
HARLACHER COATING TROUGHS (2)  
12' 1/COLOR PATRIOT BANNER PRESS  
REAR SIDE TAKE-OFF FOR 60" SIAS  
12 STATION EHLERMANN COLLATOR  
MG-28 HIGH SPEED TAPE APPLYING SYSTEM  
32" CEMENTER SYSTEM  
(2) SINGER SEWING MACHINES

(ii) 1996 Additions:

An approximately 42,500 square foot metal building, located on the real property subject to the Lease between the parties, as supplemented by the First Supplemental Lease dated as of March 1, 1998, plus the following machinery and

equipment acquired with the proceeds of the 1998 Bonds and located on such real property:

Equipment List:

M&R 5/c 10' PROCESSOR  
IDANIT DIGITAL PRINTER  
SCREEN WASHER  
JUKI SEWING MACHINE  
2 YALE HAND TRUCKS

To have and to hold, all and singular, the said goods and chattels forever. And the said Grantor hereby covenants with the said Grantee that the interest of Grantor conveyed hereby is free from all encumbrances except (i) those liens and encumbrances to which title to the described property was subject when conveyed to the Grantor, (ii) those liens and encumbrances created by the Grantee or to the creation or suffering of which the Grantee has consented; and (iii) those liens and encumbrances resulting from the failure of the Grantee to perform and observe any of the agreements on its part contained in the Equipment Lease under which it has heretofore leased such property; and that it will warrant and defend the same against the lawful claims and demands of all persons claiming through the Grantor.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, we have hereunto set our hand and affixed the official seal of the City of Wichita, Kansas, for delivery as of the \_\_\_\_ day of November, 2008.

CITY OF WICHITA, KANSAS

[seal]

By \_\_\_\_\_  
Carl A. Brewer, Mayor

ATTEST:

By \_\_\_\_\_  
Karen Sublett, City Clerk

ACKNOWLEDGMENTS

STATE OF KANSAS            )  
  )       ss:  
COUNTY OF SEDGWICK    )

BE IT REMEMBERED that on this \_\_\_\_ day of November, 2008, before me, a notary public in and for said County and State, came Carl A. Brewer, Mayor of the City of Wichita, Kansas, a municipal corporation of the State of Kansas (the "City"), and Karen Sublett, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY OF WICHITA,  
KANSAS, TO CONVEY CERTAIN PROPERTY TO RAND  
GRAPHICS, INC. AND PRESCRIBING THE FORM OF AND  
AUTHORIZING THE EXECUTION AND DELIVERY OF  
CERTAIN DOCUMENTS IN CONNECTION THEREWITH.**

**WHEREAS**, the City has previously issued its Industrial Revenue Bonds, Series IV-A, 1998, and its Subordinated Industrial Revenue Bonds Series IV-B, 1998 (the "Bonds"), in the aggregate original principal amount of \$3,485,000, in connection with the acquisition of the land described in Schedule I hereto (the "Land"), and the construction thereon of the improvements (said Land and Improvements being hereinafter referred to together as the "Facility"); and

**WHEREAS**, the Bonds were issued pursuant to Ordinance No. 43-716 passed and approved by the governing body of the City on March 24, 1998 (the "Ordinance"); and

**WHEREAS**, in connection with the issuance of the Bonds, the City, as lessor (the "Landlord"), and Rand Graphics, Inc., as lessee (the "Tenant"), entered into a Lease Agreement dated as of December 1, 1995 ("Lease Agreement"), as amended by a First Supplemental Lease Agreement dated as of March 1, 1998 (the "Supplemental Lease") and collectively referred to as the "Lease", notice of which Lease Agreement was duly recorded with the Register of Deeds of Sedgwick County on December 1, 1995 on Film 1573, beginning on page 1031 and the notice of Supplemental Lease was duly recorded on March 1, 1998 on Film 1771, beginning on Page 1420; and

**WHEREAS**, the Tenant has paid in full, on or before March 1, 2008, all of the outstanding Bonds; and

**WHEREAS**, the tenant and lessor entered into an Assignment of Site Lease duly recorded on Film 1779, beginning on Page 2000, and this Assignment of Site Lease shall remain in full force and effect until March 1, 2008, unless declared, in writing, by the then record owner of the Project, to be null and void, and

**WHEREAS**, concurrently upon the payment in full of all of the Bonds, the Lease is declared null and void and the Tenant requests that the City convey title to the Project to Rand Graphics, Inc., following such payment and the payment of the sum of \$1,000 and all other payments required by Section 17.1 and 17.2 of the Lease;

**WHEREAS**, the City desires to convey said Project to the Tenant upon satisfaction of the conditions specified herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:**

**Section 1. Approval of Conveyance.** The conveyance by the City of the real and personal property described in Schedule I attached hereto and incorporated herein by reference (with such technical changes in such description as may be necessary to correct or update it) is hereby approved, upon the terms and conditions set forth herein.

**Section 2. Authorization of Documents.** The City hereby authorizes and approves the Termination of Lease Agreement, attached hereto as Exhibit A, and the Bill of Sale, attached hereto as Exhibit B, in substantially the forms presented to and reviewed by the governing body of the City at this meeting and attached to this Resolution (copies of which documents shall be filed in the records of the City), with such changes therein as shall be approved by the officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof.

**Section 3. Execution of Documents.** The Mayor is hereby authorized and directed to execute the Termination of Lease Agreement and the Bill of Sale, and the City Clerk or Deputy City Clerk is hereby authorized and directed to attest to such documents, for and on behalf of the City; provided, however, that delivery of such documents is subject to the terms and conditions contained in Section 4 below.

**Section 4. Delivery of Documents.** Concurrently with the final payment of all outstanding Bonds, or thereafter the Mayor, City Clerk, or other appropriate staff of the City are hereby authorized and directed to deliver the Termination of Lease Agreement and the Bill of Sale, conditioned upon the tenant having made payment of (i) any fees due the Paying Agent; (ii) any other payments required by Sections 17.1 and 17.2 of the Lease; and, (iii) \$1000, as required by the Lease.

**Section 5. Further Authority.** The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates as may be necessary to transfer the Project, terminate all interest of the City in the Project and carry out the intent of this Resolution.

**ADOPTED** by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of November, 2008.

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

**RAND GRAPHICS, INC.**

**SCHEDULE I**

**SCHEDULE I TO THE FIRST SUPPLEMENTAL TRUST  
INDENTURE OF THE CITY OF WICHITA, KANSAS AND EMPRISE  
BANK, AS TRUSTEE, DATED AS OF MARCH 1, 1998 AND TO THE  
FIRST SUPPLEMENTAL LEASE DATED AS OF MARCH 1, 1998 BY  
AND BETWEEN SAID CITY AND RAND GRAPHICS, INC.**

**PROPERTY SUBJECT TO LEASE**

A) **THE LAND.** The Issuer's leasehold interest in the following described real estate located in Sedgwick County, Kansas:

(i) Commencing at the SW Corner of Lot 1, Block 1, A.M.F. Addition, Wichita, Sedgwick County, Kansas; thence N89°19'46"E along the South line of said Lot 1, 37.30 feet; thence N00°E parallel with the West line of said Lot 1, 24.81 feet for a point of beginning; thence N00°34'24"W 85.25 feet; thence N89°25'36"E, 140.59 feet; thence S00°34'24"E, 85.25 feet; thence S89°25'36"W, 140.59 feet to the point of beginning.

(ii) Lot 1, Block 1, Vautravers Addition, Wichita, Sedgwick County, Kansas

The issuer's easement interest in the following described real estate located in Sedgwick County, Kansas:

(iii) Lot 1, McMillan Second Addition and Lot 1, Rand Addition, Wichita, Sedgwick County, Kansas.

said real property constituting the "Land" as referred to in said Lease and Indenture.

B) **THE IMPROVEMENTS.** All buildings, improvements, machinery and equipment now or hereafter constructed, located or installed on the Land pursuant to said Lease, constituting the "Improvements" as referred to in said Lease and said Indenture, and more specifically described as follows:

(i) 1995 Project:

An approximately 17,200 square foot metal building, located on the real property described in paragraph (A)(i) above, and which adjoins the Tenant's existing facilities, plus the following machinery and equipment acquired with the proceeds of the 1995 Bonds and 1996 Bonds and located on the real property described above:

110" LAWSON MILL TRIMMER  
1957 HEIDELBERG CYLINDER PRESS 22X28  
POWERMAC  
HERITAGE II TIME CLOCK

84X187 EXPOSURE UNIT  
HAMADA OFFSET PERFECTOR PRESS  
60" SIAS LAMP EXP UV DRYER  
GROMMET WASHER FEEDING & SETTING MACHINE  
ACTIVE VOICE REPLAY VOICE MAIL SYSTEM  
54X144 FILM BOARD & 22" OVERHEAD TRACK  
60 TON A/C UNIT  
DOLEX 800 PLOTTER  
SCITEX UPGRADE  
SIAS 5/COLOR QUATTRO BANNER PRESS  
ROSENTHAL SHEETER  
INTERTHOR ELECTRIC LIFT  
INTERTHOR ELECTRIC LIFT  
PROFIT CONTROL REMOTE SITE  
HARLACHER H41-3 AUTOMATIC SCREEN COATER  
HARLACHER COATING TROUGHS (2)  
12' 1/COLOR PATRIOT BANNER PRESS  
REAR SIDE TAKE-OFF FOR 60" SIAS  
12 STATION EHLERMANN COLLATOR  
MG-28 HIGH SPEED TAPE APPLYING SYSTEM  
32" CEMENTER SYSTEM  
(2) SINGER SEWING MACHINE SYSTEMS

(ii) 1996 Additions

Building Description: An approximately 42,500 square foot metal building, located on the real property described in paragraph (A)(i) above and adjoining the Tenant's existing facilities.

Equipment List:

M&R 5/C 10' PROCESSOR  
IDANIT DIGITAL PRINTER  
SCREEN WASHER  
JUKI SEWING MACHINE  
2 YALE HAND TRUCKS

The property described in paragraphs (A) and (B) of this Schedule I, together with any alterations or additional improvements properly deemed a part of the Project.

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** Purchase Option (Rand Graphics, Inc.) (District IV)

**INITIATED BY:** Office of Urban Development

**AGENDA:** Consent

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**Recommendation:** Adopt the Resolution.

**Background:** On March 17, 1998, City Council approved issuance of IRBs totaling \$3.485 million for Rand Graphics, Inc., a graphics arts and commercial print and screen products manufacturing company. Rand offers creation and production and fulfillment services to its customers as well as complete finishing operations. Bond proceeds were used to finance the expansion of their existing facility at 2820 South Hoover Rd. The City Council also granted a ten-year (5+5) tax abatement on bond-financed property.

Rand Graphics has given notice to the City of their intent to exercise the purchase option on the bond financed property. Under the provisions of the Lease Agreement, the Tenant has the option to purchase the facility from the City of Wichita for the sum of \$1,000 once outstanding bonds have been paid.

**Analysis:** Under the terms of the Lease, upon receipt of written notice, the City is required to convey its interest in the property securing the IRB issue to the Tenant, once Tenant has paid the purchase price and addressed other considerations under the provisions of the Lease Agreement, including the payment of all outstanding bonds. Final payment on the bonds was completed March 1, 2008. This action will return all property pledged to the bonds to Rand Graphics.

**Financial Considerations:** The City has received payment of the \$1,000 purchase option price. This price includes without limitations, principal, interest, redemption premium, and all other expenses of redemption, and trustee fees, but after the deduction of any amounts described and provided for in the Lease Agreement and available for such redemption.

**Goal Impact:** Economic Vitality and Quality of Life. Cooperating with the Tenant and Trustee on IRB issues is a necessary part of preserving the credibility and integrity of the City's IRB program for future projects.

**Legal Considerations:** The City is contractually bound to return the IRB Project property to the Tenant once all the conditions established in the Lease have been met. The City Attorney's Office has approved to form the attached Resolution to authorize the execution of the Bill of Sale and Termination of Lease Agreement and the delivery of such documents (each in substantially the form attached to the Resolution) following satisfaction of applicable conditions.

**Recommendation/Actions:** It is recommended that the City Council adopt the Resolution approving the Bill of Sale and Termination of Lease Agreement and authorize necessary signatures.

**Attachments:** Resolution, Bill of Sale, Termination of Lease

RESOLUTION NO. 08-5514

A RESOLUTION AUTHORIZING THE CITY OF WICHITA, KANSAS, TO CONVEY CERTAIN PROPERTY TO RAND GRAPHICS, INC. AND PRESCRIBING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

**WHEREAS**, the City has previously issued its Industrial Revenue Bonds, Series IV-A, 1998, and its Subordinated Industrial Revenue Bonds Series IV-B, 1998 (the "Bonds"), in the aggregate original principal amount of \$3,485,000, in connection with the acquisition of the land described in Schedule I hereto (the "Land"), and the construction thereon of the improvements (said Land and Improvements being hereinafter referred to together as the "Facility"); and

**WHEREAS**, the Bonds were issued pursuant to Ordinance No. 43-716 passed and approved by the governing body of the City on March 24, 1998 (the "Ordinance"); and

**WHEREAS**, in connection with the issuance of the Bonds, the City, as lessor (the "Landlord"), and Rand Graphics, Inc., as lessee (the "Tenant"), entered into a Lease Agreement dated as of December 1, 1995 ("Lease Agreement"), as amended by a First Supplemental Lease Agreement dated as of March 1, 1998 (the "Supplemental Lease") and collectively referred to as the "Lease", notice of which Lease Agreement was duly recorded with the Register of Deeds of Sedgwick County on December 1, 1995 on Film 1573, beginning on page 1031 and the notice of Supplemental Lease was duly recorded on March 1, 1998 on Film 1771, beginning on Page 1420; and

**WHEREAS**, the Tenant has paid in full, on or before March 1, 2008, all of the outstanding Bonds; and

**WHEREAS**, the tenant and lessor entered into an Assignment of Site Lease duly recorded on Film 1779, beginning on Page 2000, and this Assignment of Site Lease shall remain in full force and effect until March 1, 2008, unless declared, in writing, by the then record owner of the Project, to be null and void, and

**WHEREAS**, concurrently upon the payment in full of all of the Bonds, the Lease is declared null and void and the Tenant requests that the City convey title to the Project to Rand Graphics, Inc., following such payment and the payment of the sum of \$1,000 and all other payments required by Section 17.1 and 17.2 of the Lease;

**WHEREAS**, the City desires to convey said Project to the Tenant upon satisfaction of the conditions specified herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:**

**Section 1. Approval of Conveyance.** The conveyance by the City of the real and personal property described in Schedule I attached hereto and incorporated herein by reference (with such technical changes in such description as may be necessary to correct or update it) is hereby approved, upon the terms and conditions set forth herein.

**Section 2. Authorization of Documents.** The City hereby authorizes and approves the Termination of Lease Agreement, attached hereto as Exhibit A, and the Bill of Sale, attached hereto as Exhibit B, in substantially the forms presented to and reviewed by the governing body of the City at this meeting and attached to this Resolution (copies of which documents shall be filed in the records of the City), with such changes therein as shall be approved by the officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof.

**Section 3. Execution of Documents.** The Mayor is hereby authorized and directed to execute the Termination of Lease Agreement and the Bill of Sale, and the City Clerk or Deputy City Clerk is hereby authorized and directed to attest to such documents, for and on behalf of the City; provided, however, that delivery of such documents is subject to the terms and conditions contained in Section 4 below.

**Section 4. Delivery of Documents.** Concurrently with the final payment of all outstanding Bonds, or thereafter the Mayor, City Clerk, or other appropriate staff of the City are hereby authorized and directed to deliver the Termination of Lease Agreement and the Bill of Sale, conditioned upon the tenant having made payment of (i) any fees due the Paying Agent; (ii) any other payments required by Sections 17.1 and 17.2 of the Lease; and, (iii) \$1000, as required by the Lease.

**Section 5. Further Authority.** The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates as may be necessary to transfer the Project, terminate all interest of the City in the Project and carry out the intent of this Resolution.

**ADOPTED** by the governing body of the City of Wichita, Kansas, this \_\_\_\_ day of November, 2008.

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law



**RAND GRAPHICS, INC.**

**SCHEDULE I**

SCHEDULE I TO THE FIRST SUPPLEMENTAL TRUST INDENTURE OF THE CITY OF WICHITA, KANSAS AND EMPRISE BANK, AS TRUSTEE, DATED AS OF MARCH 1, 1998 AND TO THE FIRST SUPPLEMENTAL LEASE DATED AS OF MARCH 1, 1998 BY AND BETWEEN SAID CITY AND RAND GRAPHICS, INC.

**PROPERTY SUBJECT TO LEASE**

A) **THE LAND.** The Issuer's leasehold interest in the following described real estate located in Sedgwick County, Kansas:

(i) Commencing at the SW Corner of Lot 1, Block 1, A.M.F. Addition, Wichita, Sedgwick County, Kansas; thence N89°19'46"E along the South line of said Lot 1, 37.30 feet; thence N00°E parallel with the West line of said Lot 1, 24.81 feet for a point of beginning; thence N00°34'24"W 85.25 feet; thence N89°25'36"E, 140.59 feet; thence S00°34'24"E, 85.25 feet; thence S89°25'36"W, 140.59 feet to the point of beginning.

(ii) Lot 1, Block 1, Vautravers Addition, Wichita, Sedgwick County, Kansas

The issuer's easement interest in the following described real estate located in Sedgwick County, Kansas:

(iii) Lot 1, McMillan Second Addition and Lot 1, Rand Addition, Wichita, Sedgwick County, Kansas.

said real property constituting the "Land" as referred to in said Lease and Indenture.

B) **THE IMPROVEMENTS.** All buildings, improvements, machinery and equipment now or hereafter constructed, located or installed on the Land pursuant to said Lease, constituting the "Improvements" as referred to in said Lease and said Indenture, and more specifically described as follows:

(i) 1995 Project:

An approximately 17,200 square foot metal building, located on the real property described in paragraph (A)(i) above, and which adjoins the Tenant's existing facilities, plus the following machinery and equipment acquired with the proceeds of the 1995 Bonds and 1996 Bonds and located on the real property described above:

110" LAWSON MILL TRIMMER

1957 HEIDELBERG CYLINDER PRESS 22X28

POWERMAC

HERITAGE II TIME CLOCK

84X187 EXPOSURE UNIT

HAMADA OFFSET PERFECTOR PRESS

60" SIAS LAMP EXP UV DRYER  
GROMMET WASHER FEEDING & SETTING MACHINE  
ACTIVE VOICE REPLAY VOICE MAIL SYSTEM  
54X144 FILM BOARD & 22" OVERHEAD TRACK  
60 TON A/C UNIT  
DOLEX 800 PLOTTER  
SCITEX UPGRADE  
SIAS 5/COLOR QUATTRO BANNER PRESS  
ROSENTHAL SHEETER  
INTERTHOR ELECTRIC LIFT  
INTERTHOR ELECTRIC LIFT  
PROFIT CONTROL REMOTE SITE  
HARLACHER H41-3 AUTOMATIC SCREEN COATER  
HARLACHER COATING TROUGHS (2)  
12' 1/COLOR PATRIOT BANNER PRESS  
REAR SIDE TAKE-OFF FOR 60" SIAS  
12 STATION EHLERMANN COLLATOR  
MG-28 HIGH SPEED TAPE APPLYING SYSTEM  
32" CEMENTER SYSTEM  
(2) SINGER SEWING MACHINE SYSTEMS

(ii) 1996 Additions

Building Description: An approximately 42,500 square foot metal building, located on the real property described in paragraph (A)(i) above and adjoining the Tenant's existing facilities.

Equipment List:

M&R 5/C 10' PROCESSOR  
IDANIT DIGITAL PRINTER  
SCREEN WASHER  
JUKI SEWING MACHINE  
2 YALE HAND TRUCKS

The property described in paragraphs (A) and (B) of this Schedule I, together with any alterations or additional improvements properly deemed a part of the Project.

## BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned, City of Wichita, Kansas, a municipal corporation (the "Grantor"), does grant, sell, transfer and deliver unto Rand Graphics, Inc., a Kansas corporation (the "Grantee"), all of its interest in the following goods and chattels, viz:

(i) 1995 Project:

An approximately 17,200 square foot metal building, located on the real property subject to Lease Agreement between the parties dated as of December 1, 1995, plus the following machinery and equipment acquired with the proceeds of the 1995 Bonds and 1996 Bonds and located on such real property:

110" LAWSON MILL TRIMMER  
1957 HEIDELBERG CYLINDER PRESS 22X28  
POWERMAC  
HERITAGE II TIME CLOCK  
84X187 EXPOSURE UNIT  
HAMADA OFFSET PERFECTOR PRESS  
60" SIAS LAMP EXP UV DRYER  
GROMMET WASHER FEEDING & SETTING MACHINE  
ACTIVE VOICE REPLAY VOICE MAIL SYSTEM  
54X144 FILM BOARD & 22" OVERHEAD TRACK  
60 TON A/C UNIT  
DOLEV 800 PLOTTER  
SCITEX UPGRADE  
SIAS 5/COLOR QUATTRO BANNER PRESS  
ROSENTHAL SHEETER  
INTERTHOR ELECTRIC LIFT  
INTERTHOR ELECTRIC LIFT  
PROFIT CONTROL REMOTE SITE  
HARLACHER H41-3 AUTOMATIC SCREEN COATER  
HARLACHER COATING TROUGHS (2)  
12' 1/COLOR PATRIOT BANNER PRESS  
REAR SIDE TAKE-OFF FOR 60" SIAS  
12 STATION EHLERMANN COLLATOR  
MG-28 HIGH SPEED TAPE APPLYING SYSTEM  
32" CEMENTER SYSTEM  
(2) SINGER SEWING MACHINES

(ii) 1996 Additions:

An approximately 42,500 square foot metal building, located on the real property subject to the Lease between the parties, as supplemented by the First

Supplemental Lease dated as of march 1, 1998, plus the following machinery and equipment acquired with the proceeds of the 1998 Bonds and located on such real property:

Equipment List:

M&R 5/c 10' PROCESSOR  
IDANIT DIGITAL PRINTER  
SCREEN WASHER  
JUKI SEWING MACHINE  
2 YALE HAND TRUCKS

To have and to hold, all and singular, the said goods and chattels forever. And the said Grantor hereby covenants with the said Grantee that the interest of Grantor conveyed hereby is free from all encumbrances except (i) those liens and encumbrances to which title to the described property was subject when conveyed to the Grantor, (ii) those liens and encumbrances created by the Grantee or to the creation or suffering of which the Grantee has consented; and (iii) those liens and encumbrances resulting from the failure of the Grantee to perform and observe any of the agreements on its part contained in the Equipment Lease under which it has heretofore leased such property; and that it will warrant and defend the same against the lawful claims and demands of all persons claiming through the Grantor.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, we have hereunto set our hand and affixed the official seal of the City of Wichita, Kansas, for delivery as of the \_\_\_\_ day of November, 2008.

CITY OF WICHITA, KANSAS

[seal]

By \_\_\_\_\_  
Carl A. Brewer, Mayor

ATTEST:

By \_\_\_\_\_  
Karen Sublett, City Clerk

ACKNOWLEDGMENTS

STATE OF KANSAS            )  
                                      )  
COUNTY OF SEDGWICK    )

ss:

BE IT REMEMBERED that on this \_\_\_\_ day of November, 2008, before me, a notary public in and for said County and State, came Carl A. Brewer, Mayor of the City of Wichita, Kansas, a municipal corporation of the State of Kansas (the "City"), and Karen Sublett, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_

RAND GRAPHICS, INC.

SCHEDULE I

SCHEDULE I TO THE FIRST SUPPLEMENTAL TRUST INDENTURE OF THE CITY OF WICHITA, KANSAS AND EMPRISE BANK, AS TRUSTEE, DATED AS OF MARCH 1, 1998 AND TO THE FIRST SUPPLEMENTAL LEASE DATED AS OF MARCH 1, 1998 BY AND BETWEEN SAID CITY AND RAND GRAPHICS, INC.

PROPERTY SUBJECT TO LEASE

C) THE LAND. The Issuer's leasehold interest in the following described real estate located in Sedgwick County, Kansas:

(iv) Commencing at the SW Corner of Lot 1, Block 1, A.M.F. Addition, Wichita, Sedgwick County, Kansas; thence N89°19'46"E along the South line of said Lot 1, 37.30 feet; thence N00°E parallel with the West line of said Lot 1, 24.81 feet for a point of beginning; thence N00°34'24"W 85.25 feet; thence N89°25'36"E, 140.59 feet; thence S00°34'24"E, 85.25 feet; thence S89°25'36"W, 140.59 feet to the point of beginning.

(v) Lot 1, Block 1, Vautravers Addition, Wichita, Sedgwick County, Kansas

The issuer's easement interest in the following described real estate located in Sedgwick County, Kansas:

(vi) Lot 1, McMillan Second Addition and Lot 1, Rand Addition, Wichita, Sedgwick County, Kansas.

said real property constituting the "Land" as referred to in said Lease and Indenture.

D) THE IMPROVEMENTS. All buildings, improvements, machinery and equipment now or hereafter constructed, located or installed on the Land pursuant to said Lease, constituting the "Improvements" as referred to in said Lease and said Indenture, and more specifically described as follows:

(iii) 1995 Project:

An approximately 17,200 square foot metal building, located on the real property described in paragraph (A)(i) above, and which adjoins the Tenant's existing facilities, plus the following machinery and equipment acquired with the proceeds of the 1995 Bonds and 1996 Bonds and located on the real property described above:

110" LAWSON MILL TRIMMER  
1957 HEIDELBERG CYLINDER PRESS 22X28  
POWERMAC  
HERITAGE II TIME CLOCK  
84X187 EXPOSURE UNIT  
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60" SIAS LAMP EXP UV DRYER  
GROMMET WASHER FEEDING & SETTING MACHINE  
ACTIVE VOICE REPLAY VOICE MAIL SYSTEM  
54X144 FILM BOARD & 22" OVERHEAD TRACK  
60 TON A/C UNIT  
DOLEX 800 PLOTTER  
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HARLACHER H41-3 AUTOMATIC SCREEN COATER  
HARLACHER COATING TROUGHS (2)  
12' 1/COLOR PATRIOT BANNER PRESS  
REAR SIDE TAKE-OFF FOR 60" SIAS  
12 STATION EHLERMANN COLLATOR  
MG-28 HIGH SPEED TAPE APPLYING SYSTEM  
32" CEMENTER SYSTEM  
(2) SINGER SEWING MACHINE SYSTEMS

(iv) 1996 Additions

Building Description: An approximately 42,500 square foot metal building, located on the real property described in paragraph (A)(i) above and adjoining the Tenant's existing facilities.

Equipment List:

M&R 5/C 10' PROCESSOR

IDANIT DIGITAL PRINTER

SCREEN WASHER

JUKI SEWING MACHINE

2 YALE HAND TRUCKS

The property described in paragraphs (A) and (B) of this Schedule I, together with any alterations or additional improvements properly deemed a part of the Project.



Bids were opened October 31, 2008, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

**Relief Sanitary Sewer between Emporia and St. Francis, from Douglas to 10th Street (Phase 1) (468-84544/624091/658570)** Traffic is to be maintained using flagpersons and barricades. (District I)

WB Carter Construction - \$589, 131.00

**City of Wichita**  
**City Council Meeting**  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** Payment for Settlement of Lawsuit

**INITIATED BY:** Law Department

**AGENDA:** Consent

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**Recommendation:** Authorize payment of \$11,500.00 as a full settlement of all possible claims arising out of an automobile accident.

**Background:** On January 7, 2008, Juanita Bergman was involved in an automobile collision with a vehicle operated by a city employee; she claims property damage and personal injuries.

**Analysis:** After investigating the claim, evaluating the extent of the claimed damages, and considering the risks of trial, the City determined that a resolution of this matter was appropriate. After some discussion and negotiation, the City has been offered an opportunity to resolve the claim with a lump sum payment of \$11,500.00 as full settlement of all claims arising out of these events; this includes \$11,000.00 for personal injuries and \$500.00 for property damage. Because of the risks associated with litigation, the Law Department recommends acceptance of the offer.

**Goal Impact:** Internal Perspectives.

**Financial Considerations:** Funding for this settlement payment is from the City's Tort Liability Fund.

**Legal Considerations:** The Law Department recommends acceptance of the offer of settlement.

**Recommendations/Actions:** Authorize payment of \$11,500.00 as a full settlement of all possible claims arising out of the accident which is the subject of the claim and approve the necessary budget adjustments.

**City of Wichita  
City Council Meeting  
November 4, 2008**

**TO:** Mayor and City Council Members

**SUBJECT:** Fleet Internal Service Fund Budget Adjustment (All Districts)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendation:** Approve the budget transfers.

**Background:** Fleet Maintenance is responsible for the operation and maintenance of about 2,500 automobiles, light trucks, heavy trucks, heavy equipment and light equipment used by City departments. Fleet does not provide vehicles or service for Wichita Transit's large buses, or for Airport equipment. Internal customers pay rent on vehicles and equipment to offset the operation, maintenance and future replacement costs. Services include preventive maintenance, repairs, tire service, mobile service, fueling, towing, body shop and major mechanical repairs. Major repairs for specialized heavy equipment are managed contractually with local businesses.

**Analysis:** The Fleet budget is established based on known and estimated costs, including wages, repair parts, fuel, and replacement vehicles and equipment. The budget for fuel was increased significantly in 2008, based on experience in 2006 and 2007. However, in 2008 fuel costs have been even higher than estimated. Through September 2008, fuel costs are up almost \$1.3 million, or 61.5 percent, compared to the same period in 2007.

**Financial Considerations:** The Fleet Fund has a State-certified 2008 expenditure budget of \$12,852,150. To complete all 2008 transactions, it is estimated that transfers of up to \$950,000 (about 7.4 percent of budget) are needed. All transfers would occur within the Fleet Fund, using contingency funds, inventory account funds, savings in personal services costs, and capital equipment replacement funds if necessary. Including these transfers, total fund expenditures will be within the 2008 State-certified expenditure budget of \$12,852,150. The cash balance of the Fleet Fund will remain positive.

**Goal Impact:** Maintaining Fleet services helps to support other City departments which are supporting the Council-approved goals and indicators. These services include police protection, landscape and green space maintenance, and street maintenance.

**Legal Considerations:** Budget transfers over \$25,000 require City Council approval.

**Recommendations/Actions:** It is recommended that the City Council approve the budget transfers.

**Attachment:** None.

**City of Wichita  
City Council Meeting  
November 4, 2008**

**TO:** Mayor and City Council Members

**SUBJECT:** Dry Creek Channel Improvements (Lincoln to Orme) (District III)

**INITIATED BY:** Department of Public Works

**AGENDA:** Consent

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**Recommendations:** Approve resolution.

**Background:** In 1997, a drainage study was completed by Mid Kansas Engineering Consultants (MKEC) which led to the recommendation for a project to improve flooding conditions for Dry Creek in the Lincoln to Orme area. On June 13, 2006, the City Council approved a design contract with Black & Veatch for a lump sum of \$190,000. A \$15,000 supplemental agreement followed on October 17, 2006, to expand Black & Veatch's design scope. On February 7, 2007, District Advisory Board III approved the final design concept, and Black & Veatch proceeded to develop the final plans.

**Analysis:** Several preliminary concepts for Dry Creek were evaluated by Black & Veatch including a buyout option, bridge replacements, and different channel improvement configurations. The best alternative with the most benefit to the community was presented in August, 2006 to the homeowners of the Dry Creek Neighborhood Association. After listening to the concerns of the neighborhood, the final design included grading to accommodate two future pocket parks.

Black & Veatch's final plans and analysis indicate that the project should reduce the number of homes flooded in the 100-year storm from 35 to 8.

**Financial Considerations:** Originally, the 2005-2014 CIP, as adopted by the City Council, included \$1.3 million for design and right-of-way acquisition for the Dry Creek Channel Improvement project. An additional \$2.2 million within the 2007-2016 CIP, as adopted by City Council, is allotted for the construction of the project in 2008 and 2009. The revised total budget of \$3.5 million is requested to cover construction costs for the channel improvement.

**Goal Impact:** This project addresses the Ensure Efficient Infrastructure goal by providing public improvements for drainage through better flood conveyance and a reduction in property damage.

**Legal Considerations:** Resolution has been approved as to form by the Law Department

**Recommendation/Actions:** It is recommended the City Council approve the Resolution and authorize the necessary signatures.

**Attachments:** Resolution and CIP sheet

First Published in the Wichita Eagle on November 7, 2008

RESOLUTION NO. 08-515

A RESOLUTION FINDING IT NECESSARY TO MAKE CERTAIN IMPROVEMENTS TO THE CHANNEL ALONG DRY CREEK, BETWEEN LINCOLN AND ORME 468-84177 AND AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1. That the City of Wichita shall repeal Resolution No. 06-353 approved on June 15, 2006 for \$1,300,000.

SECTION 2. That the City of Wichita desires to make certain related improvements to the drainage along Dry Creek between Lincoln and Orme.

SECTION 3. That the cost of the above described site improvements is estimated to be \$3,500,000 exclusive of the cost of interest on borrowed money. Said cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of general obligation bonds.

SECTION 4. That the advisability of said improvements is established as authorized by K.S.A. 13-1024c and City of Wichita Charter Ordinance No. 156.

SECTION 5. That this Resolution shall take effect and be in force from and after its passage and shall be published in the official City paper.

ADOPTED at Wichita, Kansas, November 4, 2008.

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CARL BREWER, MAYOR

ATTEST:

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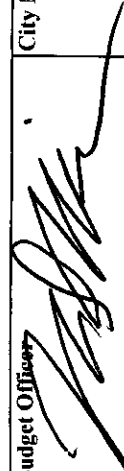
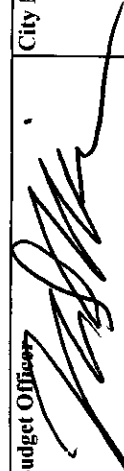
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED:

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GARY REBENSTORF, DIRECTOR OF LAW

CAPITAL IMPROVEMENT									
PROJECT AUTHORIZATION									
CITY OF WICHITA									
USE: 1. Prepare in triplicate 2. Send original & 2 copies to budget. 3. City Manager to sign all copies. 4. File original w/ initiating resolution in City Clerk. 5. Return 2nd copy to initiating department. 6. Send 3rd copy to Controller.									
1. Initiating Department Public Works		2. Initiating Division Storm Water Utility		3. Date 10/21/2008		4. Project Description & Location Dry Creek Channel Improvements between Lincoln & Orme			
5. CIP Project Number 468-84177		6. Accounting Number		7. CIP Project Date (Year) 2007-2016		8. Approved by WCC Date			
9. Estimated Start Date		10. Estimated Completion Date 1-May-09		11. Project Revised					
12. Project Cost Estimate									
12A.									
ITEM	GO	SA	OTHER *	TOTAL			Yes	No	
Right of Way	\$600,000			\$600,000					
Paving, grading & const.				\$0					
Bridge & Culverts				\$0					
Drainage				\$0					
Sanitary Sewer	\$2,900,000			\$2,900,000			X		
Sidewalk									
Water									
Railroad									
Totals	\$3,500,000			\$3,500,000					
Total CIP Amount Budgeted									
Total Prelim. Estimate									
13. Recommendation: approve the project and place the ordinance on 1st reading									
Division Head 		Department Head 		Budget Officer 		City Manager 			
Date		Date		Date		Date			

City of Wichita  
City Council Meeting  
October 7, 2008

**TO:** Mayor and City Council

**SUBJECT:** Reallocation of West Douglas Park CIP Funding (District IV)

**INITIATED BY:** Department of Park and Recreation

**AGENDA:** Consent

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**Recommendation:** Approve the reallocation of funds and bonding resolution.

**Background:** On September 11, 2007, City Council approved the initiation of 2007 Park Capital Improvement Program (CIP) funds in the amount of \$450,000 for West Douglas Park improvements and renovations. The planned improvements include demolition of the existing open shelter, construction of a new open shelter with picnic tables and lighting, irrigation of the baseball/softball fields, improvement of the baseball/softball field drainage, demolition of the old restrooms and construction of new restrooms.

**Analysis:** The Park and Recreation Department was recently awarded Community Development Block Grant (CDBG) funding in the amount of \$175,000 for West Douglas Park. The planned improvements for West Douglas Park are within the CDBG requirements and eligibility for use of such funding.

The additional CDBG funding will ensure the planned improvements for West Douglas Park are achieved while optimizing CIP funding improvements for two additional sites. The Park and Recreation staff recommends reallocating \$100,000 of the CIP funds to develop a Skate Park in Aley Park and \$75,000 of the CIP funds to install a playground in Alice Wall Memorial Park.

**Financial Considerations:** The 2007 Park and Recreation Department CIP includes \$450,000 for improvements to West Douglas Park funded by general obligation (GO) bonds. The CIP funding for West Douglas Park will be reduced to \$275, 000, reallocating \$100,000 to Aley Park and \$75,000 to Alice Wall Memorial Park.

**Goal Impact:** The park development, improvements and renovations and will improve quality of life for citizens. The investment will also help maintain and optimize public facilities and assets.

**Legal Considerations:** The Law Department has approved the Resolution as to form.

**Recommendation/Action:** It is recommended that the City Council 1) approve the reallocation of funds 2) adopt the bonding resolution, 3) authorize initiation of the project, and 4) authorize all necessary signatures.

**Attachments:**

1. Amended Bonding Resolution-07-506 for West Douglas Park Improvements and Renovations
2. Bonding Resolution for Aley Skate Park
3. Bonding Resolution for Alice Wall Memorial Park Playground.

First Published in the Wichita Eagle on November 7, 2008

RESOLUTION NO. 08-516

A RESOLUTION AMENDING RESOLUTION NO. 07-506, AND  
AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT  
LARGE FOR THE IMPROVEMENT AND RENOVATION OF PARK AMENITIES  
IN WEST DOUGLAS PARK.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the description of public improvements identified in Section 1 of Resolution No. 07-506, adopted September 14, 2007 is hereby amended to read as follows:

Labor, Material, and Equipment for the development and purchase of new or existing park amenities such as the removal and replacement of open shelter with picnic tables and lighting, irrigation of the baseball/softball fields, improvement of the baseball/softball field drainage, demolition of the old restrooms and construction of new restrooms in West Douglas Park.

SECTION 2: That Section 2 of Resolution No. No. 07-506 is hereby amended to provide the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated at \$450,000, exclusive of the costs of interest on borrowed money with \$175,000 expected to be paid from Community Development Block Grant (CDBG) funds and \$275,000 paid by the City. Said city share, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K. S. A. 12-1689.

SECTION 3: That the advisability of said improvements is established as authorized by City of Wichita Charter Ordinance No. 156.

SECTION 4: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this 4<sup>th</sup> day of November, 2008.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY REBENSTORF, DIRECTOR OF LAW



First Published in the Wichita Eagle on November 7, 2008

RESOLUTION NO. 08-517

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE INSTALLATION OF A SKATE PARK AT ALEY PARK.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

The Labor, Material, and Equipment for the installation of a skate park at Aley Park.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed \$100,000 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by City of Wichita Charter Ordinance No. 156.

SECTION 4: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this 4<sup>th</sup> day of November, 2008.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

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GARY REBENSTORF, DIRECTOR OF LAW

First Published in the Wichita Eagle on November 7, 2008

RESOLUTION NO. 08-518

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE INSTALLATION OF PLAYGROUND EQUIPMENT AT ALICE WALL PARK.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

The Labor, Material, and Equipment for the installation of a new playground system at Alice Wall Park.

SECTION 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed \$75,000 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by City of Wichita Charter Ordinance No. 156.

SECTION 4: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this 4<sup>th</sup> day of November, 2008.

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
GARY REBENSTORF, DIRECTOR OF LAW

City of Wichita  
City Council Meeting  
November 4, 2008

**TO:** Mayor and City Council

**SUBJECT:** Planeview Community Library Memorandum of Agreement – District III

**INITIATED BY:** Library

**AGENDA:** Consent

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**Recommendation:** Approve the agreement renewal and authorize the designated signatures.

**Background:** Since the summer of 2003, public library service for the Planeview neighborhood has been delivered through a partnership between Colvin Elementary School and the Wichita Public Library. A memorandum of agreement establishes the framework for shared decision-making concerning the design and delivery of library service. The original agreement was for a twelve-month period with a requirement that the document be reviewed on an annual basis. Staff from the school district and the public library has completed the review process and have reached consensus on a revised agreement to guide operation for the 2008-2009 year.

**Analysis:** During 2006, 2,631 items were circulated to the public from the Planeview Community Library. Approximately 54% of the use is by adults with the remaining 46% by children. The proposed agreement updates the schedule of in-service closings, clarifies the schedule upon which fee reimbursements are paid to the public library and confirms that Wichita Public Library staff will actively promote participation in summer reading programs offered through this library. The Library Board reviewed the agreement on October 21 and recommends approval. The USD259 School Board is scheduled to receive and act upon the proposed agreement on November 10.

**Financial Considerations:** The agreement assumes continuation of the City's materials budget for the Planeview Library at \$5000 per year. Approximately 7,350 city-owned items remain in the shared library collection. Assistance with special programs has been incorporated into the public library's youth outreach service schedule. Costs to transport public library materials to and from the Library are incorporated into the Library's branch delivery route. All other operational expenses are the responsibility of the school district.

**Goal Impact:** The agreement helps to address the community's Quality of Life by expanding access to the information and recreation resources of the public library system.

**Legal Considerations:** The Law Department has reviewed and approved the agreement as to form.

**Recommendation/Action:** It is recommended that the City Council endorse the City's participation in the partnership for an additional year and authorize the Mayor to sign the memorandum of agreement.

**Attachment:** Memorandum of Agreement for delivery of service from the Colvin School Library



# **Memorandum of Agreement**

## **For delivery of library service from the Colvin School Library**

Revised August 2008

This Memorandum of Agreement provides guidelines for operation of the Colvin Elementary School library, open to the community by the Wichita Public Schools in partnership with the City of Wichita through the Wichita Public Library and to be known as the Planeview Community Library.

**HOURS OF OPERATION.** The hours of operation of the Planeview Community Library will be 10:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of the following school holidays: Dr. Martin Luther King Day, Spring Recess, Memorial Day, Independence Day, Labor Day, Veteran's Day, Fall Recess and Winter Recess. The Library will also be closed on the following in-service days: September 2, 2008; October 13, 2008; November 10, 2008; January 20, 2009; February 13, 2009 and April 27, 2009. Additional closings may be authorized by the Colvin school principal with at least one week's notice given to the Public Library to allow for sufficient notification to the community.

**OPERATIONAL EXPENSES.** Wichita Public Schools will be responsible for the following operational expenses of the Planeview Community Library: staffing, utilities including telecommunications expenses and support, maintenance and support of the integrated library automation system, custodial services, operation and maintenance of plant facilities, liability and hazard insurance. Wichita Public Schools also will be responsible for the purchase and maintenance of a library materials collection sufficient to meet the educational and curriculum needs of the Colvin students and staff.

The City of Wichita on behalf of the Wichita Public Library will be responsible for the purchase and maintenance of a collection of adult, young adult and children's materials to allow for expanded service to the Planeview community and will provide print materials to support summer reading programs.

**PROMOTION.** Wichita Public Schools will maintain a direct telephone line (973-7609) which will be the published public number for the Planeview Community Library. The Wichita Public Library will include the Planeview Community Library in all listings of its library facilities. Colvin Elementary School will regularly distribute information about the Planeview Community Library and its services to students, parents and other members of the Colvin/Planeview community. All media releases concerning

programs, services or activities of the Planeview Community Library will be jointly prepared and distributed by Wichita Public Schools and the City of Wichita.

**COLLECTION DEVELOPMENT.** Selection and acquisition of new materials for the Planeview Community Library collection will be accomplished through a joint collaboration of staff led by the Wichita Public Schools' Supervisor of Library Media Operations and the Public Library's Collection Development Coordinator. The collection development team will meet as needed to prepare and/or revise the community library materials budget, the collaborative collection development plan and priorities for purchasing for the upcoming year. The materials budget will include fund-raising goals to supplement funding provided by the Wichita Public Schools and the City of Wichita.

An Advisory Committee led by the Wichita Public Schools' Supervisor of Library Media Operations will meet in February of each year to provide recommendations for collection changes. Committee members will include school district and City staff along with a culturally diverse group of community representatives. In addition to the Supervisor of Library Media Operations, school district representatives on the committee will include the Colvin Elementary School Principal and Librarian and the Jardine Middle School Librarian. City staff serving on the committee will include the Director of Libraries, the Wichita Public Library's Coordinator of Collection Development, and the District 3 Neighborhood Assistant or his/her designee. Community representatives on the committee will include a member of the Colvin Site Council to be appointed by the School Principal, the Library Board President or his/her designee, and the President of the Planeview Neighborhood Association or his/her designee.

The Wichita Public Library will be responsible for providing materials collections for young adults and adults, and will supplement materials collections for children. The collection size and scope of materials assigned to the Planeview Community Library will be determined by available space, feedback from the Advisory Committee and use statistics. Final decisions about city-owned materials assigned to the Planeview Community Library will fall within the requirements of the Wichita Public Library Collection Development Policy and will be the responsibility of the Wichita Public Library Coordinator of Collection Development. Attachment A to this agreement outlines the collection development plan for the city-owned materials.

All new Wichita Public Library acquisitions to be added to the Planeview Community Library collection will be sent through the Wichita Public Schools Library Media Services Department for addition to SIRSI prior to being made available to Planeview customers.

The Wichita Public Schools will be responsible for providing materials collections for elementary school students and staff. The collection size and scope of materials will be determined by available space, feedback from the Advisory Committee and use statistics. Final decisions about school-owned materials assigned to the Planeview Community Library will fall within the requirements of the Wichita Public Schools' Policies and will be the responsibility of the Colvin School Librarian. Attachment B to this agreement outlines the collection development plan for school-owned materials.

**ACQUISITIONS BUDGETS.** The Wichita Public Schools' Colvin Elementary School and the City of Wichita on behalf of the Wichita Public Library will provide base budgets for the purpose of purchasing and maintaining the Planeview Community Library materials collection. Base budgets will be supplemented through fund-raising and the submission of grants.

Using the mutually agreed upon collection development plan as its guide, the Wichita Public Schools will be solely responsible for the purchase of materials made through the Colvin Elementary library materials budget and community donations to the school's library gift fund.

Using the mutually agreed upon collection development plan as its guide, the City of Wichita through the Wichita Public Library will be solely responsible for the purchase of materials made through the Library's Planeview materials budget and community donations made to the public library for use at Planeview.

As appropriate, the Planeview Community Library collection development team will work with Wichita Public Schools and Wichita Public Library Foundation grant-writing staff to identify and solicit private sector funding for enhancement of the Planeview Library materials collection. Each grant will include a specific collection program, a time frame for purchases, and a designation about the entity responsible for grant administration. To ensure coordination of effort, neither the Wichita Public Schools corporately or on behalf of Colvin Elementary School nor the City of Wichita corporately or on behalf of the Wichita Public Library will solicit grant funding or donations for the Planeview Community Library without notifying the members of the collection development team and the grant-writing offices of the respective entities.

**COLLECTION MANAGEMENT.** Wichita Public Schools will be responsible for the following tasks:

- Use of the SIRSI system for circulation and inventory control

- The addition of all Planeview Community Library materials, including those owned by the City of Wichita, to the SIRSI system
- Delivery of new city-owned Planeview Community Library materials from Library Media Services to Colvin Elementary School
- Customer access to the SIRSI catalog
- Inventory control, mending and discarding of library materials owned by the school district
- An arrangement of furniture, equipment and shelving within the Planeview Community Library space that ensures ADA compliance and ease of customer access to materials during all hours of library operation
- Generation of Planeview Community Library use statistics to be submitted to the Wichita Public Library's Coordinator of Support Services from the SIRSI system on no less than a monthly basis

The Wichita Public Library will be responsible for the following tasks:

- Maintenance of a patron account for the Planeview Community Library
- The addition of all city-owned items assigned to the Planeview Community Library to the library automation system
- Delivery of new city-owned Planeview Community Library materials from the Wichita Public Library Central Branch to the Wichita Public Schools Library Media Services Department where they will be processed and added into the Colvin SIRSI inventory
- Maintenance of a web-based public access catalog for information about Wichita Public Library holdings
- Inventory control, mending and discarding of all library materials owned by the City of Wichita
- Inclusion of the Planeview Community Library on the delivery route of the branch library courier
- Coordination with City IT/IS staff to provide an ADA compliant computer workstation within the Colvin Neighborhood City Hall

**FEES AND FINES.** Colvin school staff will be responsible for establishing the schedule of fees and fines for Planeview Community Library services. Colvin students will not be charged fines for overdue materials borrowed from the Library. Fees will be charged for overdue, lost and damaged materials loaned from the Planeview Community Library to community customers. Fees for lost and damaged materials owned by the Wichita Public Library will become revenue of the City of Wichita. Fees for lost and damaged materials owned by the Wichita Public Schools will be placed in the Colvin Library Gift Fund and will be used to purchase new or replacement library resources.



**OPERATIONAL POLICIES AND PROCEDURES.** Policies and procedures for use of the Planeview Community Library will be developed and implemented by Colvin school staff. As requested, Public Library staff will share information about their operational policies and will assist with training school staff in the implementation of these policies and procedures as appropriate.

All circulation activities of the Planeview Community Library will be transacted through the Wichita Public Schools' SIRSI system. Wichita Public Library borrower's accounts will not be used in this location. Wichita Public Library customers may establish supplemental borrowing privileges for the Planeview Community Library. Outstanding issues with Wichita Public Library customer accounts will prevent the creation or use of borrowing privileges from the Planeview Community Library. Similarly, outstanding issues with Planeview Community Library customer accounts will prevent the creation or use of borrowing privileges from the Wichita Public Library.

Planeview Community Library customers wishing to use Wichita Public Library materials not available in the Planeview collection but available from other Wichita Public Library locations may do so by placing reserve requests through the web-based public access catalog or by making interlibrary loan requests through the Colvin library staff. Items will be processed by the Wichita Public Library as "interlibrary loans" made to the Planeview Community Library. Reserve/transfer fees will not be charged but all other interlibrary loan protocols and policies will apply.

Items loaned from the Planeview Community Library may be returned to any Wichita Public Library location but will not be removed from customer accounts until the items are received at Colvin. Items loaned from the Wichita Public Library may be returned to the Planeview Community Library but will not be removed from customer accounts until the items are received at a Wichita Public Library facility. Late fees will be based upon the date on which items are returned by customers as documented by library staff rather than the date on which items will be removed from customer accounts. When outstanding fees reach \$10.00, the Wichita Public Library may refer the customer's account to collection. Fees collected from the Planeview Community Library on behalf of the Wichita Public Library will be submitted every September, December, March and June to the Customer Services Administrator.

The Planeview Community Library will participate in programming such as the Wichita Public Library Summer Reading Club and Teen Read programs and other special programs and events when available.

Wichita Public Library staff will schedule times to be at the Planeview Community Library to complete Summer Reading registrations and will ensure that training materials are provided to school library staff to help them complete registrations throughout the remainder of the reading programs.

Public access computer workstations may be added to the service mix of the Planeview Community Library if suitable hardware can be obtained from grants or gifts. If received, workstations will become the property of the Wichita Public Schools. Workstations will be added to the school telecommunications network, will be supported and maintained by Wichita Public Schools staff and will be subject to rules of use established by the Colvin principal and staff.

Regularly scheduled meetings of school district and public library staff will be used as a method to ensure ongoing communication and delivery of effective and efficient service from the Planeview Community Library. The Colvin School Principal will schedule and facilitate these meetings. In addition to the Principal, the Colvin School Librarian and the Wichita Public Library's Coordinator of Customer Services and Coordinator of Collection Development will comprise this problem-solving group. The Wichita Public Schools' Supervisor of Library Media Operations and the Wichita Public Library's Director of Libraries will participate in meetings on an as-needed basis.

**TERM OF AGREEMENT.** This Memorandum of Agreement shall renew each October 1 unless the Wichita Public Schools or the City of Wichita provides the other party written notice not later than sixty days prior to an upcoming October 1 that the Agreement will not be renewed. In addition, either party may terminate this Memorandum of Agreement at any time upon an event of default by the other party. An event of default occurs when either party is in violation of a term of the Memorandum of Agreement and the other party provides written notice of violation and the violation is not corrected within sixty (60) days of receipt of the notice. Upon a party's failure to correct a violation, the Agreement can be terminated by the non-violating party providing fifteen days advance written notice of termination to the violating party.

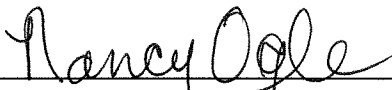
Upon termination of this Agreement, the City of Wichita will remove books and other property from the Colvin School Library that were purchased with City funds. All other real and personal property that is part of the Colvin School Library will be retained by the Wichita Public Schools upon termination. Upon termination, the Colvin School Library will no longer operate as or be a part of the Wichita Public Library System.

**AMENDMENTS.** The parties agree that no changes, additions or modifications to this agreement may be made except by written addendum signed by all parties. Terms of this agreement, including a program budget, shall be reviewed on an annual basis and approved by the Wichita Public Schools Board of Education and the Wichita City Council. The Supervisor of Library Media Operations for the Wichita Public Schools will schedule this meeting.

**SUPERSEDING PRIOR AGREEMENTS.** This 2008 Memorandum of Agreement supersedes and replaces all previous agreements entered into between the parties hereto that relate to library services at the Colvin School Library.

IN WITNESS WHEREOF, the parties have entered into this Memorandum of Agreement to be effective as of the date of its signing:

\_\_\_\_\_  
Carl Brewer, Mayor

  
\_\_\_\_\_  
Nancy Ogle, President  
Library Board of Directors

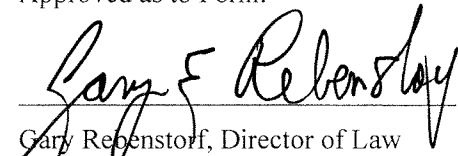
\_\_\_\_\_  
Lynn Rogers, President  
USD 259 Board of Education

Attest:

\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_  
Mike Willome, Clerk of the Board

Approved as to Form:

  
\_\_\_\_\_  
Gary Rebenstorf, Director of Law

Attachment A:

### **Wichita Public Library Collection Development Plan for the Planeview Community Library**

The City of Wichita's collections at the Planeview Community Library will include the juvenile fiction, non-fiction and picture books formerly assigned to the Planeview Branch Library, approximately 2000 print items for young adults and adults, and 200-300 non-print materials. No items will be included in the Planeview collection which is not also available in at least one other Wichita Public Library location.

Young adult and adult print materials will be shelved on four mobile units arranged in an "L" around a sitting area with chairs, tables and a magazine rack placed just inside the library entrance. Non-print materials will be kept in a locked case behind the customer service desk to be accessed only by library staff.

The print collections will emphasize life-skill and self-help materials for the Planeview community with a small popular materials component. Reference, educational, self-help, self-improvement and other topics of general interest will be represented. Paperback editions will be purchased when currency, availability and popularity is a factor.

Non-print spoken materials will be language instructional materials only.

The video and DVD collection will include a mixture of popular and educational titles.

The fiction collection will be a small (100) collection of popular titles which will change frequently to follow bestsellers. Some paperbacks will be a part of this collection. Up to 1/3 of the fiction collection will be comprised of titles appropriate for young adults.

The non-fiction collection will be primarily available for checkout, although a small reference collection (50-60 titles) will be provided. Non-fiction selections appropriate for middle school homework support will be included. Areas of emphasis for the non-fiction collection will be as follows:

000s – computer manuals, circulating copy of Guinness world records

100s – self-help

200s – book of saints, bibles and other religious texts

300s – education, law, personal finance and social issues

400s – language support

500s – math, field guides

600s – parenting, health, home repair and improvement, job issues (resume preparation, interviewing skills, etc.)

700s – basic music, drawing, beginning crafts

800s – writing how-tos, poetry anthology

900s – baby names, atlas, Kansas geography and history, US travel guides

Attachment B:

**Colvin Elementary School Collection Development Plan for the Planeview Community Library**

Each year Colvin Elementary will purchase children's library books for William Allen White (Grades 3-5) and Battle of the Books.

In addition to these annually purchased books, new titles in both easy and fiction, as well as replacement copies for lost and damaged materials will be bought. Non-fiction books will be purchased as needed to keep the collection current. Materials needed to support curriculum initiatives will be purchased.

**Books and materials will reflect the community and support literacy for families.**

**CITY OF WICHITA**  
**City Council Meeting**  
**November 4, 2008**

**TO:** Mayor and City Council Members

**SUBJECT:** Eminent Domain Professional Legal Services

**INITIATED BY:** Law Department

**AGENDA:** Consent

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**Recommendation:** Approve the agreement with Hinkle Elkouri Law Firm, L.L.C., Attorneys at Law, to provide eminent domain professional legal services.

**Background:** In 1996 the City entered into a contract with the law firm of Hinkle Elkouri, L.L.C. to provide legal services to the City in connection with any eminent domain, inverse condemnation or related property acquisition matters. The firm is interested in continuing to provide the City representation in these areas.

**Analysis:** The contract for Legal Services is for a term beginning October 1, 2008 to September 30, 2009. Based on the high quality service of the firm and the continuing nature of many of the eminent domain cases currently being managed by the firm it is recommended that the firm be retained to provide eminent domain legal services. The results that the firm has accomplished to date have been excellent.

**Goal Impact:** This enhances the goal of Efficient Infrastructure by making possible the economical acquisition of right of way for public improvements.

**Financial Considerations:** The contract provides a fee schedule that has a slight upward adjustment since 2006. The fees charged by the principal in charge remain the same. The fees reflect the fees regularly charged by comparable firms in the City for similar legal work and the commitment that the firm has made to have Mr. David Rapp available regularly for City matters. The costs of eminent domain legal services are charged to the projects for which real property is being acquired.

**Legal Considerations:** The Law Department has approved the contract as to form.

**Recommendations/Actions:** Authorize the Mayor to sign the Contract for Legal Services.

**Attachments:** Contract for Legal Services

## **CONTRACT FOR LEGAL SERVICES**

THIS CONTRACT made and entered into this 13<sup>th</sup> day of October, 2008, by and between THE CITY OF WICHITA, KANSAS, a Municipal Corporation, hereinafter called "CITY", and HINKLE ELKOURI LAW FIRM L.L.C., Attorneys at Law, hereinafter referred to as "ATTORNEY".

WITNESSETH:

That in consideration of the sums to be paid by the CITY to the ATTORNEY as hereinafter provided, and in further consideration of the mutual promises, covenants and agreements of the parties, the CITY does hereby employ the ATTORNEY for services in connection with the acquisition of property rights, the exercise of its power of eminent domain and inverse condemnation litigation by the CITY and its agencies.

The ATTORNEY agrees to, and hereby does, accept such employment and agrees to do the work necessary to perform professional legal services for the CITY as described herein pursuant to the terms hereof.

### **TERM**

The ATTORNEY agrees to commence such work the date this contract is executed, and agrees to execute the same with reasonable diligence until the 30<sup>th</sup> day of September, 2009. Renewal of said Contract for continued legal services for a like twelve month period (the renewal period) will be at the discretion of the governing body of the City of Wichita upon terms to be mutually agreed upon by the parties hereto. If the parties are unable to agree upon the terms of engagement for the renewal period, then this Contract shall terminate; ATTORNEY shall be paid in full for all services provided and expenses incurred to date of termination; and,

ATTORNEY shall be relieved of all further duties and obligations with regard to any then pending litigation consistent with the Kansas Rules of Professional Conduct.

### **COMPENSATION**

It is agreed that the ATTORNEY shall be compensated for its services on an hourly basis as set forth in Exhibit "A" which is attached and made a part of this Contract. Such rates shall be effective for all services provided on and after October 1, 2008.

ATTORNEY shall also be reimbursed for their disbursements and advances for items such as expert witness fees and expenses, consultants' fees and expenses, reproduction of documents, shipping and postage, long distance telephone calls and similar costs as set out in Exhibit "B". Such rates shall be effective for all services provided on and after October 1, 2008.

Statements for fees and itemized expenses shall be submitted on a monthly basis in accordance with ATTORNEY's standard billing practices and shall be paid within thirty days after receipt by the CITY.

ATTORNEY shall maintain a contemporaneous record of time billed, indicating a brief summary of description of the work performed. The statements submitted for services rendered under the terms of this Contract will reflect the time expended by ATTORNEY and describe the work performed.

### **ASSIGNMENT**

This Contract may not be assigned, transferred, or in any way disposed of by ATTORNEY without first having obtained written approval from the City Manager or City Council of the CITY.



### **LIMITATIONS ON AUTHORITY**

It is understood and agreed that because of the responsibilities of the City Attorney under the statutes of the State of Kansas, the name of the City Attorney will appear on all documents and pleadings and ATTORNEY will file no pleadings and send no documents, applications, or opinions of any kind to any agency or entity on behalf of the CITY, any of its agencies or departments, without consultation with the City Attorney, unless specifically requested to do so by the City Council or the City Manager. This Contract contains no authorization in any event for ATTORNEY to sign any papers or documents in the name of the City Attorney. Further, it is understood and agreed that ATTORNEY shall have no authority or incur any liability, cost or expense on the part of the CITY except as may be authorized by this Contract or specifically authorized in writing by the City Attorney.

### **SCOPE OF SERVICES TO BE PROVIDED**

During the performance of the contract, ATTORNEY shall agree to perform and shall be prepared to provide a broad range of professional services related to real property transactions, eminent domain and inverse condemnation litigation for the CITY or agencies thereof. The professional services performed by the ATTORNEY will be under the direction and control of the City Attorney. In some situations, the services provided will be done in association with in-house legal staff of the Department of Law. The professional services include, but are not limited to, the following:

1. Research and general investigation into the potential for inverse condemnation suits against the CITY by the owner(s) of specific lands and aimed at assessing the likely range of recovery if such suits are successful;

2. Research and general investigation aimed at assessing the likely result of certain proposed eminent domain actions, i.e. establishing a range of potential awards;

3. Render advice, guidance and assistance when requested by the City Manager, City Attorney, Director of Property Management, Public Works Director, City Engineer or their designees, relative to proposed projects;

4. Consulting with the City Attorney, CITY staff and other retained consultants regarding:

a) analysis of likely acquisition costs in connection with planned improvements and public projects;

b) suggestions for changes to improvements and projects which will mitigate property acquisition costs and/or “taking” costs; and

c) recommendations to either purchase or acquire by eminent domain necessary property interests.

5. Draft and preparation of petitions and pleadings in eminent domain actions pursuant to K.S.A. 26-501, et seq.;

6. Prosecution to completion of eminent domain action under K.S.A. 26-501, et seq.;

7. Prosecution or defense of eminent domain appeals, including all necessary discovery, motion practice, trial preparation and trial, either to the court or a jury and appellate proceedings beyond the district court;

8. Defense of inverse condemnation actions, including appropriate discovery, motion practice, trial preparation, trial and appellate proceedings beyond the district court;

9. Any other research, consultation or court appearances as directed by the City Attorney and related to the CITY's acquisition of property or property rights and its powers of eminent domain;

10. Have available at all reasonable times a senior member of the firm for the purpose of providing the services described herein in a timely manner;

11. Avoid representation of other clients which cause or will result in conflicts of interest for ATTORNEY except as otherwise provided hereinafter;

12. Upon request, attend City Council meetings when a matter involving a real estate transaction, condemnation or inverse condemnation is to be considered by the City Council;

#### **CITY IS THE CLIENT**

ATTORNEY represents that in providing professional services under this contract that they represent solely and only the CITY's interests.

#### **PROFESSIONAL LIABILITY INSURANCE**

The ATTORNEY will maintain policies of professional liability insurance coverage, with a Certificate of Insurance or a copy of the policy to be provided to the CITY upon written request.

#### **NON-DISCRIMINATION**

ATTORNEY agrees to the terms and conditions as set forth in Exhibit "C", which is attached to and made a part of this Contract.

#### **TERMINATION OF CONTRACT FOR CAUSE**

It is mutually agreed that the CITY reserves the right to terminate this Contract at any time, upon written notice, in the event of ATTORNEY's inability to perform the services or in the event the services of ATTORNEY are unsatisfactory; provided, that in such case the

ATTORNEY will be paid the reasonable value of the services rendered up to the time of termination.

**CONFLICTS**

In the event a potential or actual conflict of interest issue arises between the CITY and any of the ATTORNEY's other clients or potential clients relating to services provided by ATTORNEY to such clients, ATTORNEY shall notify the City Attorney in writing and seek a waiver of the conflict of interest. The CITY agrees that ATTORNEY will not be required under this Contract or otherwise to represent the CITY in condemnation of land owned or otherwise occupied by ATTORNEY's other clients.

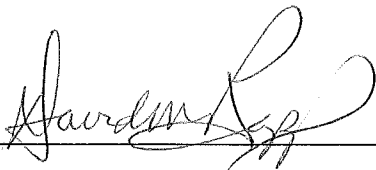
CITY OF WICHITA, KANSAS

\_\_\_\_\_  
Carl Brewer, Mayor


ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

HINKLE ELKOURI LAW FIRM L.L.C.

By   
Title: Member

APPROVED AS TO FORM:

  
Gary E. Rebenstorf  
Director of Law

**EXHIBIT "A"**

**FEES**

\$200 per hour for Members of the Firm

\$120 to \$150 per hour for Associates

\$80 to \$95 per hour for Paralegals

\$40 per hour for Practice Area Assistants

**EXHIBIT "B"**

**COSTS**

<b><u>Nature Of Expense</u></b>		<b><u>Amount To Be Charted</u></b>
		<b><u>Method of Calculation</u></b>
1.	In-House Photocopying	\$.10 per page
2.	Outside Photocopying/Printing	Actual expense incurred
3.	Facsimile Transmittals	\$1.00 per page
4.	Long Distance Telephone Expense	Actual expense incurred
5.	Postage and Shipping Expenses	Actual expense incurred
6.	Publication Expenses	Actual expense incurred
7.	Recording/Filing Fees	Actual expense incurred
8.	State Agency Fees	Actual expense incurred
9.	Travel Expenses:	
	(A) Mileage	Current IRS rates
	(B) Tolls/Parking	Actual expense incurred
	(C) Taxies/Other Ground Transportation	Actual expense incurred
	(D) Meals/Lodging	Actual expense incurred
10.	Expert witness fees and expenses	Actual expense incurred
11.	Consultants' fees and expenses	Actual expense incurred

**REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
1. The contractor shall observe the provisions of the Kansas Act against discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification, national origin or ancestry;
  2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission"
  3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by and contracting agency;
  4. If the contractor is found guilty of a violation of the Kansas Act against discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraph 1 through 4, inclusively, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Exempted from these requirements are: (State of Kansas)
1. Any contractor, subcontractor, vendor or supplier who has already complied with the provisions set forth in sections pertaining to the State of Kansas by reason of holding a contract with the Federal government, or a contract involving Federal funds.
  2. Contracts entered into by a contractor, subcontractor, vendor or supplier who employs fewer than four (4) employees during the term of this contract.
  3. Contracts with the City of Wichita with a cumulative total of five thousand dollars (\$5,000) or less during the fiscal year of the City.
- D. Provisions of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall observe the provisions of the Code of the City of Wichita against discrimination (Section 2.12.900, et seq. of the Code of the City of Wichita, Kansas) and shall not discriminate against any employee or applicant for employment in the performance of work under the present contract, purchase order or agreement because of race, religion, color, sex, "disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification", national origin, ancestry or marital status. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program when required to the Rights and Services Board of the City of Wichita, Kansas, "Civil Rights and Services" in accordance with the guidelines established for review and evaluation;
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or in behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification", national origin, ancestry or marital status. In all



solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase that is deemed acceptable by the "Wichita Civil Rights and Services Board";

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the rules, regulations and the orders issued by the Board pursuant thereto, and will permit access to books, records and procedures concerning employment relations by the "Civil Rights and Services Board" of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the Board in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be initiated against such vendor supplier, contractor or subcontractor;
4. If the vendor, supplier, contractor or subcontractor is found guilty of a violation of any provision of the Code of the City of Wichita pertaining to and regulating Non-Discrimination -- Equal Employment Opportunity under a decision or order of the "Civil Rights and Services Board" of the City of Wichita, Kansas, which has become final, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement, and it may be canceled, terminated or suspended in whole or in part by the City of Wichita, and such other synchronous and remedies may be imposed as provided by law;
5. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsection 1 through 4, inclusively, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

E. Exempted from these requirements are: (City of Wichita)

1. Any contractor or subcontractor, vendor or supplier of the City of Wichita, or any of its agencies, who wishes to enter into a contract, purchase order or agreement which is covered by the provisions of Section 2.12.908 of the Code of the City of Wichita, Kansas, shall prior to entering into such contract, purchase order or agreement, submit to the "Civil Rights and Services Board" of the City of Wichita, Kansas, A preliminary report on forms provided by the Board concerning Non-Discrimination -- Equal Employment/Affirmative Action for review and evaluation. Upon review of the preliminary form submitted:

- a. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
  - b. The provisions of Section 2.12.908 shall not apply to vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reasons of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) days period from the Federal agency involved.
  - c. Those contractors, subcontractors, vendors or suppliers not exempted herein whose preliminary report reveals deficiencies shall be required to submit goals and timetables for correction of such deficiencies in accordance with instructions included with the preliminary report for review, evaluation and acceptance prior to a contract, purchase order or agreement award.
- F. Failure of any contractor, subcontractor, vendor or supplier to report to the "Kansas Human Rights Commission" as required by K.S.A. 1976 Supp. 44-1031, as amended, or to the "Civil Rights and Services Board" of the City of Wichita as required by 2.12.908, of the Code of the City of Wichita, Kansas; or has been found guilty of a violation of the City's Ordinances, State Statutes, or Federal Statutes, or regulations pertaining to unlawful discrimination, which finding, decision or order has become final, shall be deemed a breach of this contract and said contract may be canceled, terminated or suspended in whole or in part by the City or its contracting agency.

**CITY OF WICHITA**  
**City Council Meeting**  
**November 4, 2008**

**TO:** Mayor and City Council

**SUBJECT:** Notice of Intent to Use Debt Financing  
Tenant Facility Improvements – Mid-Continent Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Consent

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**Recommendation:** Adopt the Resolution.

**Background:** The Airport Authority relies on the City of Wichita for the issuance of General Obligation bonds and/or notes for capital projects. In order to use debt financing for a project it is necessary to declare that a public necessity exists for, and that the public safety, service and welfare will be advanced by the authorization of certain capital improvements to the Mid-Continent Airport facility. Additionally, the nature of said improvements, the estimated costs thereof, and the manner of payment needs to be disclosed. The actual issuance of the bonds/notes will require a separate authorization from the City Council. Debt financing can be in the form of temporary notes for durations as short as six months for timing considerations, or in the form of General Obligation bonds for long-term financing.

**Analysis:** On October 28, 2008, the Wichita Airport Authority authorized an increase in the tenant facility improvement project planned at 1761 Airport Road to meet contractual obligations. It is appropriate to make notice of the intent to use debt financing for this project with the specific financing amount and length being identified when the actual issuance of the bonds/notes are authorized in the future by City Council.

**Financial Considerations:** The revised total budget for the project is \$715,000 which represents the maximum cost that will be financed with General Obligation bonds/notes. The source of repayment for the bonds/notes will be Airport revenues.

**Goal Impact:** The Airport's contribution to the economic vitality of Wichita is leveraged through the use of financing for capital projects.

**Legal Considerations:** The Law Department has approved the Authorizing Resolution as to form.

**Recommendation/Action:** It is recommended that the City Council adopt the Resolution and authorize the necessary signatures.

**Attachments:** Authorizing Resolution.

Published in the Wichita Eagle on November 7 and November 14, 2008

RESOLUTION NO. 08-523

A RESOLUTION DECLARING THAT A PUBLIC NECESSITY EXISTS FOR, AND THAT THE PUBLIC SAFETY, SERVICE AND WELFARE WILL BE ADVANCED BY, THE AUTHORIZATION OF LAND ACQUISITION AND/OR CERTAIN CAPITAL IMPROVEMENTS TO THE WICHITA MID-CONTINENT AIRPORT FACILITY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS; THE ESTIMATED COSTS THEREOF; AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 3-114 provides that an airport authority established pursuant to K.S.A. 3-162 shall have the power to equip, improve and maintain an airport and

WHEREAS, K.S.A. 13-1348a provides that a city having an airport authority established pursuant to K.S.A. 3-162 is authorized to issue general obligation bonds for the purpose of purchasing land for airport purchases or for the construction, enlargement, reconstruction, repair or addition to or of any improvements to any such lands.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That a public necessity exists for, and that the public safety, service and welfare will be advanced by, the authorization of land acquisition and/or certain capital improvements, specifically,

**Tenant Facility Improvements (1761 Airport Road)**  
to the Wichita Mid-Continent Airport facility operated by the Wichita Airport Authority of the City of Wichita, Kansas (such land acquisition and/or improvement to be referred to herein as the "Project").

SECTION 2. That the cost of the above described Project is estimated to be Seven Hundred and Fifteen Thousand Dollars (\$715,000), exclusive of the cost of interest on borrowed money, and is to be paid by the Wichita Airport Authority of the City of Wichita. Said Wichita Airport Authority cost shall be financed through the issuance of general obligation bonds under the authority of K.S.A. 13-1348a, as amended by Charter Ordinance No. 78 of the City of Wichita, Kansas. The maximum principal amount of bonds issued for this Project shall not exceed \$715,000.

SECTION 3. To the extent the Project is a capital improvement, the above described Project shall be made in accordance with the Plans and Specifications prepared under the direction of the Airport Engineering and Planning Manager and approved by the Wichita Airport Authority. Said plans and specifications are to be placed on file in the office of the Airport Engineering and Planning Manager located at Wichita Mid-Continent Airport.

SECTION 4. That the City Clerk shall make proper publication of this resolution, which shall be published once each week for two consecutive weeks in the official City paper and which shall be effective from and after said publication.

ADOPTED at Wichita, Kansas, November 4, 2008.

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CARL BREWER, MAYOR

ATTEST:

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KAREN SUBLETT, CITY CLERK  
(SEAL)

APPROVED AS TO FORM:

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GARY REBENSTORF, DIRECTOR OF LAW

**Second Reading Ordinances for November 4, 2008 (first read on October 7, 2008)**

Public Hearing on Proposed Assessments for Twenty Seven (27) Water Projects, Twenty Five (25) Sewer Projects, and Thirteen (13) Storm Sewer Projects in February 2009 Bond Sale Series 796.

(480-991/448-90195)

**ORDINANCE NO. 48-012**

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of Water Distribution System No. 448-90195, TO SERVE RAINBOW LAKES WEST ADDITION, (South of Central, East of 135th Street West).

(480-868/468-84168)

**ORDINANCE NO. 48-037**

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of LATERAL 39, MAIN 1, COWSKIN INTERCEPTOR SEWER, (South of Central, East of 135th Street West).

ZON2008-36– Amendment to Protective Overlay #130 (PO-130) to eliminate the prohibition on drive through service, to increase the permitted size of restaurants from 2,000 to 5,000 square feet in size, and to increase signage from 72 square feet with a 12-foot height limit to 132 square feet with a 16.5 foot height limit. Generally located south of Maple and 800 feet east of 135th Street West. (District V)

**ORDINANCE NO. 48-095**

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

Creation of Wichita Transit Advisory Board.

ORDINANCE NO.48-101

An Ordinance of the City of Wichita pertaining to membership and Governance of the Wichita Transit Advisory Board; creating Sections 2.12.1135, 2.12.1136, 2.12.1137, and 2.12.1138 of the code of the City of Wichita

**Second Reading Ordinances for November 4, 2008 (first read on October 28, 2008)**

ZON2008-00047-City zone change from SF-5 Single-family Residential (“SF-5”) to LI Limited Industrial (“LI”); generally located south and east of the intersection of Walker Street and Sabin Avenue. (District IV)

ORDINANCE NO. 48-107

An Ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

ZON2008-00048 – City zone change from SF-5 Single-family Residential (“SF-5”) to GC General Commercial (“GC”) with a Protective Overlay; generally located at the northeast corner of the intersection of K-15 and 31st Street South. (District III)

ORDINANCE NO. 48-108

An Ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.